Security Council

Sixtieth year

Provisional

5199th meeting

Monday, 13 June 2005, 10 a.m.

New York

President:	Mr. Duclos/Mrs. Collet	(France)
Members:	Algeria	Mr. Benmehidi
	Argentina	Mr. Mayoral
	Benin	Mr. Zinsou
	Brazil	Mr. Tarrisse da Fontoura
	China	Mr. Zhang Yishan
	Denmark	Ms. Løj
	Greece	Mrs. Telalian
	Japan	Mr. Kitaoka
	Philippines	Mr. Mercado
	Romania	Mr. Motoc
	Russian Federation	Mr. Rogachev
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United Republic of Tanzania	Mr. Manongi
	United States of America	Mr. Rostow

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994

Letter dated 25 May 2005 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council (S/2005/343 and Corr.1)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

05-38136 (E)

Letter dated 23 May 2005 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994 addressed to the President of the Security Council (S/2005/336)

The meeting was called to order at 10.10 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994

Letter dated 25 May 2005 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council (S/2005/343 and Corr.1)

Letter dated 23 May 2005 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994 addressed to the President of the Security Council (S/2005/336)

The President *(spoke in French)*: I should like to inform the Council that I have received letters from the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia and Montenegro in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Loncar (Serbia and Montenegro), Mr. Kusljugic (Bosnia and Herzegovina), Mr. Nimac (Croatia) and Mr. Ngoga (Rwanda) took the seats reserved for them at the side of the Council Chamber.

The President (*spoke in French*): On behalf of the Council, I warmly welcome Mr. Zoran Loncar, Minister of Public Administration and Local Self-Government of the Republic of Serbia, on behalf of Serbia and Montenegro.

I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Judge Theodor Meron, President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

It is so decided.

I invite Judge Meron to take a seat at the Council table.

I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Judge Erik Møse, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994.

It is so decided.

I invite Judge Møse to take a seat at the Council table.

I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Ms. Carla Del Ponte, Prosecutor of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

It is so decided.

I invite Prosecutor Del Ponte to take a seat at the Council table.

I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994.

It is so decided.

I invite Prosecutor Jallow to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda.

The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them a letter dated 25 May 2005 from the President of the International Tribunal for the Former Yugoslavia addressed to the President of the Security Council, document S/2005/343 and corrigendum 1.

Members of the Council also have before them a letter dated 23 May 2005 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council, document S/2005/336.

At this meeting, the Security Council will hear briefings by the President and the Prosecutor of the International Tribunal for the Former Yugoslavia, as well as by the President and the Prosecutor of the International Criminal Tribunal for Rwanda.

Following those briefings, I shall give the floor to Council members wishing to make comments or ask questions.

As there is no list of speakers for the members of the Council, I should like to invite those who intend to speak to so indicate to the Secretariat.

I give the floor to Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia.

Judge Meron *(spoke in French)*: It is always a great honour for me to take the floor before the Council. That is more than ever the case today since it is the French presidency that is guiding the Council's work. Mr. President, your country has left a profound imprint on the history of democracy and is considered to be the homeland of human rights. As President of the International Criminal Tribunal for the Former Yugoslavia, I believe that it is my duty to emphasize that it has also actively helped in setting up and developing the Tribunal and has played a key role in combating impunity.

Mr. President, as the representative of a country that uses civil law, you are, of course, aware of the gradual development of our rules of procedure, in keeping with an ongoing concern to improve the effectiveness of our procedures without sacrificing the imperative need to safeguard the right of defence. Those changes have in particular transformed the role of judge from that of a neutral arbiter, as it is under common law, to that of a real participant in the procedure, both at the pre-trial preparation stage and during the trial itself.

During the discussions which preceded and accompanied that development, French law and judicial practice were often a source of inspiration.

(*spoke in English*)

Mr. President, it is with honour and pleasure that I am addressing the Security Council as President of the International Tribunal for the Former Yugoslavia under your presidency. Your country has been a steadfast supporter of the Tribunal, and that, Mr. President, is very much appreciated.

This is the third report that I have presented to the Council since the adoption of resolution 1534 2004), which requested the President and Prosecutor of each ad hoc Tribunal to provide the Council with assessments every six months detailing the progress made towards the realization of their respective completion strategies. The written report is now before the Council in document S/2005/343. Through both the narrative part and the annexes, it is intended to provide the Council with a realistic picture of how the Yugoslavia Tribunal is grappling with the challenge of meeting the goals of the completion strategy. I shall try, in my oral statement, not to repeat the details of the report, but rather to highlight its salient features and to provide the Council with an update of the information provided therein.

Since the last report (S/2004/897), submitted in November 2004, the Tribunal's three Trial Chambers and one Appeals Chamber have been working at maximum capacity, with the Trial Chambers handling six cases simultaneously. That means that, on average, six different cases are being tried by different benches of three judges each. The written report indicates that two judgements have been issued since the last report and predicts that by the end of this November four additional judgements will have been issued in cases involving an additional seven accused persons. That means, of course, that by the end of this year another batch of four cases will begin. The pace is unrelenting. The new report also highlights the fact that 22 new accused persons have arrived at The Hague since the last report was issued, meaning that there are now 50 per cent more people awaiting trial than there were the last time I appeared before the Council. Obviously, that dramatic increase has significant implications for the completion strategy.

With those critical preliminaries out of the way, allow me to survey the major features of the report, and in particular to emphasize the relevant updates contained therein.

With regard to internal measures taken to implement the strategy, we have adopted significant amendments to our rules of procedure and evidence, including one relating to judgement of acquittal — namely, rule 98 *bis*, which mandates oral rather than written submissions. I am happy to report that that amendment has already had a salutary effect on speeding up out procedures to a few days or a few very short weeks, without sacrificing defendants' due process rights. Before the amendment, rule 98 *bis* proceedings would likely have taken up several months of the Trial Chambers' time.

I have also appointed two working groups of judges for speeding up trials and appeals. The working group on trials, which is chaired by Judge Bonomy, has been exploring ways to speed up trials by, among other alternatives, finding additional courtroom space and streamlining our pre-trial and trial procedures. Those modalities were the subject of an in-depth and wide-ranging discussion among all the judges just a week ago.

The working group on speeding up appeals, which is chaired by Judge Mumba, has focused on the rules governing the admissibility of additional evidence at the appeals stage as well as on the procedures for translating decisions and judgements for appellants, which can have a major impact on the timely disposition of appeals. By the time the plenary of judges meets in July, I expect that both working groups will have presented concrete and actionable recommendations.

Turning now to ad litem judges, I very much appreciate the adoption by the Council of resolution 1597 (2005), which amended the Statute of the Tribunal to allow for the re-nomination and re-election of ad litem judges. Nonetheless, I am very concerned about the lack of a sufficient number of nominations. That has significantly delayed the election of a sorely needed new roster of ad litem judges. For new trials to be assigned to panels of judges without delay, it is absolutely imperative that the President have at his disposal a roster of distinguished jurists who are willing and able to serve the Tribunal, often on quite short notice, at this critical juncture. I appeal to all States that have not yet submitted nominations to nominate experienced jurists for that important position. It provides a unique opportunity for individuals to make a difference in advancing the cause of international justice.

I now come to a key component of the completion strategy, namely, the referral of cases involving intermediate and lower-rank accused persons to competent national jurisdictions. I should particularly like to highlight the opening of the War Crimes Chamber of the State Court of Bosnia and Herzegovina on 9 March 2005. After much time and effort devoted to making that event a reality — efforts in which I and my colleagues have been deeply involved — the Sarajevo War Crimes Chamber is now in a position to accept cases that the Tribunal's Referral Bench may decide to refer to the authorities of Bosnia and Herzegovina. The Government and people of Bosnia and Herzegovina, the High Representative, donor Governments and the international community as a whole have made that possible, and the Tribunal and its staff are pleased to have been central to that endeavour.

The report notes that, so far, the Prosecutor has filed 10 motions involving 18 accused persons for such referrals under rule 11 *bis* of our rules of procedure and evidence. In enclosure V to the report, members of the Council will see that, of those 10 motions, the Referral Bench has granted the motion in one case, referring the

case to Bosnia and Herzegovina for proceedings before the Sarajevo War Crimes Chamber. However, that transfer must await the disposition by the Appeals Chamber of filed appeals. The Council will note that the Referral Bench has already held hearings in six other cases, involving 13 accused persons. Future decisions on the Prosecutor's motions to refer cases to competent national jurisdictions are therefore expected in the very near future. In addition, as the Prosecutor points out in her assessments, she is considering filing additional rule 11 *bis* motions for referral.

As to the cooperation of States in the region with the Tribunal, as I have already indicated, there has been a dramatic increase in the number of indictees and fugitives transferred to the Tribunal, mostly thanks to the efforts of the authorities of Serbia and Montenegro, sometimes together with authorities of Republika Srpska. The impact of those new arrivals will be addressed later in my statement.

With regard to Croatia, while cooperation remains good in some areas, it is of major concern that the last remaining stumbling block to achieving full cooperation with the Tribunal is the continuing failure on the part of authorities in Croatia to apprehend Ante Gotovina and render him to The Hague.

Concerning Republika Srpska, other than assistance with regard to the arrival of some indictees and fugitives, cooperation remains lacking in other areas, in particular with regard to any serious attempts to locate and arrest such notorious fugitives as Radovan Karadzic and Ratko Mladic.

Cooperation has improved with Serbia and Montenegro with regard to the arrival of indictees and fugitives. During a meeting and in-depth discussion with Prime Minister Kostunica of Serbia and President Tadic of Serbia this March, I strongly encouraged them both to ensure the arrival of the remaining fugitives thought to be in Serbia and Montenegro or Republika Srpska. The largest impediment on that front is the continuing failure to apprehend and render to The Hague Ratko Mladic.

Allow me to add that it goes without saying that when and if those three principal fugitives move across borders to avoid apprehension and arrest, the obligation to pursue and arrest them applies in full to the authorities of their temporary *séjour*. That also highlights the need for Governments in the region to redouble their efforts to ensure judicial cooperation between their own authorities. I have consistently maintained that if the voluntary surrender of accused war criminals is not forthcoming, the international obligation of the States of the region is to arrest and transfer the accused without delay.

As I have said many times, the Tribunal will not have fulfilled its historic mission — and it will not close its doors — until Karadzic, Mladic and Gotovina have been arrested, brought to The Hague and tried before the Tribunal in accordance with the full procedural protections recognized by our jurisprudence.

I now turn to the updated prognosis regarding implementation of the Completion Strategy. In my last assessments, I estimated that, by the end of 2008, the Tribunal could complete the trials of all accused in our custody at that time, including Gotovina if he arrived before 2006, but warned that any further growth of the trial docket would make achieving that target date entirely dependent on some cases being disposed of by guilty pleas. I also added that, if new indictees or fugitives were to arrive and require separate trials, it would become likely to take at least until the end of 2009 to complete the trials of all accused within the custody of the Tribunal.

As is evident from the report before the Council now, some of those factors bearing on the implementation of the Strategy have come to pass and others must be addressed. Allow me to take them up one by one.

First, with respect the number of new indictments, as the report indicates, seven new or amended indictments have been submitted since my November report. Five of the indictments will require new, separate trials. For two other cases involving five accused, I understand that the Prosecutor is considering whether to move the joinder of those cases with pre-existing cases.

Secondly, with respect to the number of rule 11 bis motions for transfer granted, as I have just mentioned, one of the 10 outstanding motions has been granted by the Referral Bench and is currently on appeal. Six others have been the subject of hearings. While it might be anticipated that the Referral Bench will render more decisions by the end of this month, it would be neither possible nor appropriate for me to speculate about the ultimate disposition of those motions.

Thirdly, as to the number of guilty pleas, I need only mention that there have been no new guilty pleas since my last report.

Fourthly, I wish to refer to the arrival of new indictees and fugitives. With the arrival of 22 new indictees or fugitives, our projections must be adjusted, as I warned in my last report to the Council. As of now, we are working on the assumption that at least ten of the new accused will be the subject of seven new, separate trials. Five trials will involve one individual accused; one will involve two accused; and another, three accused. Of the remaining 12 accused, the Prosecutor has already moved to join three to a pre-existing case. I understand she is also considering moving the joinder of seven accused to another pre-existing case, which would result in a "mega case" of eight or nine accused. Finally, two new arrivals are the subject of a rule 11 bis motion for referral to a competent national jurisdiction. I cannot, of course, predict how Trial Chambers will decide on motions for joinder, or indeed anticipate the Prosecutor's ultimate decision about whether to move for joinders in the first place.

Turning to the 10 fugitives who have still not arrived and the impact on the caseload should they arrive, six of the fugitives are on indictments with co-accused already in custody and therefore new, separate trials for them would not be required. Meanwhile, the Prosecutor is considering the suitability of two others for joinder. And the arrival of Karadzic and Mladic would entail a new, joint trial, provided they arrive more or less contemporaneously. We know that their trial will be lengthy and complex, but it is impossible to know how it will impact the timeline of the overall situation without knowing when they will arrive and when the trial could begin for both the Prosecution and defence counsel. Obviously, for purposes of planning and enhancing the prospects of the Tribunal's completing its work sooner rather than later, the earlier they have been apprehended and transferred to The Hague, the better.

Fifthly, the timing of the arrivals of remaining indictees and fugitives has a critical influence on the Completion Strategy, but it simply cannot be predicted with any degree of certainty. While it might be possible to estimate roughly the length of a trial prior to the arrival of an accused, we have to wait until the accused is actually in The Hague to assess a variety of factors — the readiness of both parties to proceed, whether joinder is possible, and the availability of courtrooms and judges to hear the cases.

Sixthly, as to the disposition of joinder motions, as I indicated earlier, the Trial Chambers are seized of several motions by the Prosecutor for joinder of cases, and she is considering filing further such motions. Decisions are expected soon on the pending motions. If such motions are granted, there could be trials of up to eight or nine accused. Of course, such joinders are not a panacea, as additional time would be required to dispose of a given case, but they would clearly save time when compared to having separate trials for each of the accused. As my report indicates, I welcome any such major time-saving tactic that is consistent with due process and the rights of the accused.

Allow me to mention another matter of importance. While the arrival of indictees and fugitives obviously complicates our Completion Strategy timetable, it goes without saying that the arrival of alleged war criminals can only be applauded. Persons accused of having committed war crimes must be brought to justice and cannot be allowed to hide, hoping that the Tribunal will close its doors before they are found and arrested. The arrival of such a substantial number of accused moves the Tribunal further towards the fulfilment of its mandate: prosecuting those accused of committing war crimes in the former Yugoslavia.

Coming to the current estimate, I should preface my remarks with a cautionary word. Any estimates are necessarily tentative, since they can only be based on assumptions subject to unpredictable factors. I would indicate, for instance, that if all possible rule 11 bis motions are granted; if all possible motions for joinder are granted; if no new fugitives arrive; and if no guilty pleas are entered, the Tribunal would complete its current caseload sometime in 2009. But all of those "ifs" indicate that those estimates are based on assumptions that evolving reality will modify.

For example, if the Tribunal's three most notorious fugitives — Karadzic, Mladic, and Gotovina — are arrested in the near future, their cases would extend the time necessary to complete trials by an additional four to seven months, given the possible joinders. As a purely independent matter, if half of the pending and anticipated rule 11 bis motions are denied, the trial completion date would slip an estimated nine months. Further, if one of the large joinder motions —

the so-called mega-cases — is denied, it could add another three months to the time required to try them all. Any combination of other contingencies — health-related trial interruptions, guilty pleas, et cetera — could also alter the outcome.

Knowing what we know now, the most I can indicate is that trials will necessarily have to be conducted in 2009 and that they will most likely continue until the end of that year. When the next six-month report is presented, the President of the Tribunal should be able to provide an assessment that is based on more factual predictions. It is hoped that by next November, current and possible rule 11 bis and joinder motions will have been disposed of. Arrivals of additional indictees will provide more data on the caseload and target dates. In addition, the judges will have considered recommendations for speeding up both trials and appeals.

Before concluding, I should like to raise another matter mentioned in my report: the possibility of adding a fourth courtroom. Such an additional courtroom would be very advantageous in my view and would make it possible for us to speed up trials and appeals. The report indicates the advantages to be derived from adding a fourth courtroom. Advantages would arise whether we maintain the existing six trials a day or, even more, if it is decided to allow three additional ad litem judges to serve so that a seventh trial bench could be established to help deal with the backlog. I wish to stress that I would not request that the cost of constructing such a courtroom be borne by the United Nations budget, but would rather approach possible donor countries that would see the long-term advantage of expediting trials and appeals through increased courtroom capacity.

This is a matter that we have just begun to explore, and no doubt the President of the Tribunal will return to the Council to discuss this subject once the possibilities have become clearer. We would welcome any comments that members of the Council might have regarding the matter and will count, as always, on the guidance and leadership of the Council as we pursue this question.

Before I conclude, let me allude to the approaching tenth anniversary of an atrocity that, in its character and magnitude, was reminiscent of those committed during the Second World War. This July will mark 10 years since the atrocities — the genocide — at Srebrenica. Let me quote the following from the 19 April 2004 Krstic Appeals Chamber judgement:

> "By seeking to eliminate a part of the Bosnian Muslims, the Bosnian Serb forces committed genocide. They targeted for extinction the forty thousand Bosnian Muslims living in Srebrenica, a group which was emblematic of the Bosnian Muslims in general. They stripped all the male Muslim prisoners, military and civilian, elderly and young, of their personal belongings and identification, and deliberately and methodically killed them solely on the basis of their identity. The Bosnian Serb forces were aware, when they embarked on this genocidal venture, that the harm they caused would continue to plague the Bosnian Muslims. The Appeals Chamber states unequivocally that the law condemns, in appropriate terms, the deep and lasting injury inflicted, and calls the massacre at Srebrenica by its proper name: genocide. Those responsible will bear this stigma, and it will serve as a warning to those who may in future contemplate the commission of such a heinous act."

It is a shame that Karadzic and Mladic are still at large, 10 years after Srebrenica. As we approach that commemoration, it is worth emphasizing that it is to the Security Council that the international community, the public and, especially, victims of atrocities turn for leadership and justice for the redress of atrocities. The Tribunal is one manifestation of the Council's commitment to international justice, to the rule of law and to the struggle against impunity, as well as to peace and reconciliation. We are there to carry out the mission that the Council entrusted to us. We commit ourselves to redouble our efforts to see that justice is done for victims and accused alike, that due process is honoured and that accused war criminals are not treated with impunity, but rather are afforded a fair trial. With the support of the members of the Council, I am confident that we can succeed in our difficult task in the remaining years of our mandate.

I would now like to conclude by making some remarks in my personal capacity. Over the years, the Security Council has played a critical role by using its power and prestige to resist impunity, to establish individual criminal responsibility for perpetrators of atrocities and to impose sanctions on those who violate human rights and humanitarian norms. The Council's

decisions, taken under Chapter VII, to establish the ad hoc Tribunals in 1993 and 1994 — half a century after Nuremberg — were seminal moments. They led not only to the trial and punishment of senior figures responsible for atrocities in the Balkans and Rwanda, but also to the creation of a whole new corpus of jurisprudence on international criminal law, procedure and evidence — a body of law that will be the historic legacy of the ad hoc Tribunals. Of course, much remains to be done to combat impunity outside the areas covered by the jurisdiction of the ad hoc Tribunals. The Council has the power and the responsibility to do all it can to advance those goals.

I see the Council's referral — under Chapter VII — of the situation in Darfur to the International Criminal Court as a critical next step in the historic evolution of the anti-impunity principle. The referral underscores the world community's resolute commitment to the principle that the perpetrators of such crimes against humanity will be held to account. It also demonstrates the potential of Chapter VII and its beneficial uses in advancing accountability in all parts of the world. Speaking as a scholar of international humanitarian law, I congratulate the Council on its wise action this spring.

Finally, in mid-November, my presidency of the ICTY will come to an end and I will continue as an Appeals Chamber judge. This is thus my last appearance before the Council as Tribunal President. May I take this opportunity to express to you, Mr. President, and to all the other members of the Council my deep gratitude for your steady support of the Tribunal and of international justice, and for the help you have generously given me in the performance of my duties.

The President (*spoke in French*): I thank President Meron for his briefing and for the kind words he addressed to my country. As this is his last presentation before the Council, I believe that I reflect the feelings of all those present in paying tribute to his work.

I now give the floor to Judge Erik Møse, President of the International Criminal Tribunal for Rwanda.

Judge Møse: It is a great honour for me to address the members of the Security Council. The Council has received the updated version of the completion strategy of the International Criminal Tribunal for Rwanda (ICTR), dated 23 May 2005. It includes the developments during the past six months, in conformity with Security Council resolution 1534 (2004). In this oral intervention, I will briefly highlight the most important aspects.

The number of accused in completed and ongoing cases is now 50. They include one Prime Minister, 11 Government ministers, four prefects, seven bourgmestres and many other high-ranking individuals. That illustrates the importance of the ICTR in establishing the guilt or the innocence of alleged leaders of 1994 who would probably not have been brought before a court had it not been for the ICTR. We appreciate the cooperation of Member States in transferring them to Arusha.

Since the meeting of the Security Council last November (see S/PV.5086), two single accused judgements have been delivered, bringing the total number of accused having received judgement from 23 to 25. The Muhimana judgement of April this year is a significant contribution to the ICTR's contribution to jurisprudence on sexual offences. The Rutaganira judgement, rendered in March this year, was the fourth time an accused at the ICTR pleaded guilty. As the Council knows, the number of guilty pleas at the ICTR is low compared to those at the International Criminal Tribunal for the Former Yugoslavia. It will be interesting to see whether the number at the ICTR increases further.

In addition to those 25 persons, trials involving 25 accused are in progress. Five of those trials are voluminous multi-accused cases. As mentioned in our completion strategy (S/2005/336, enclosure), three of them have now reached an advanced stage. In the Butare trial, involving six accused, the defence case commenced on 31 January 2005 and is proceeding well. The Military I case, with four accused, faced some unforeseen problems because the assignment of lead counsel for one of the accused was withdrawn. That could have had far-reaching consequences for the progress of the trial. Fortunately, a solution was found which made it possible to commence the defence case in April 2005. The trial is now progressing well. In the Government trial, which involves four Government ministers, the Chamber is now hearing the last prosecution witness. The defence case is therefore approaching.

Our strategy is to prioritize the completion of those three important multi-accused trials involving a total of 14 accused. We estimate that they will be completed in 2006.

The other two multi-accused cases are at an earlier stage. The Military II trial, which involves four accused, commenced in September 2004 and is progressing steadily. With respect to the Karemera et al. case, the Council will recall that the Appeals Chamber decided that the trial of those four accused should start de novo before a different Trial Chamber. The new Chamber decided to sever one of the accused, Rwamakuba, from the other three accused. His trial, which is now one of our four single accused cases, recommenced on 9 June 2005. The prosecution case is expected to conclude in a few weeks time. The trial of the other three accused will commence de novo in September this year. Let me add that the Karemera and Rwamakuba trials will be twin-tracked and prioritized so as to make up for lost time.

The remaining three single-accused cases are all approaching their end. The Simba trial is virtually completed, with closing arguments to be heard in early July. The defence case in the Seromba trial has been delayed because of unforeseen problems in the defence team but is expected to commence soon. Finally, the prosecution case in the Muvunyi trial will be completed in a few weeks. Scheduling of new single-accused trials for the second half of 2005 is under way.

In order to ensure maximum judicial output, it is important to find the right balance between the steady progress of the multi-accused trials and the completion of single-accused trials. That is not an easy task, in particular because the multi-accused trials require a lot of time in the courtroom. Our November 2004 completion strategy (S/2004/921, annex) mentioned that it would facilitate our work if a fourth courtroom could be constructed, based on voluntary contributions. Following contributions from the Governments of Norway and the United Kingdom and the necessary approval at United Nations Headquarters, the construction of the fourth courtroom was completed in record time: only four weeks. The costs were about half of the constructions costs of any of the first three courtrooms.

The fourth courtroom was inaugurated in the morning of 1 March 2005, and it was already in use in the afternoon of the same day. It is an important element of our completion strategy. With nine trials and only three courtrooms, the cases were slowed down. The solution was to sit in morning and afternoon shifts. Each shift allows for about four hours efficient time in the courtroom, whereas a full day session allows a Chamber to sit for about six hours. That had, in particular, an impact on our multi-accused trials, which require a lot of time in the courtroom. The construction of the fourth courtroom has facilitated their steady progress.

The Council will recall that, in addition to the 50 accused whose trials have been completed or are in progress, 16 detainees are awaiting trial in the detention facility in Arusha. No new detainees have arrived in Arusha since our November 2004 report. The trials of those detainees will commence as soon as courtroom space allows. Two of them will commence in the second half of 2005.

In his oral presentation, the Prosecutor will deal with the issue of transfer of trials. He will also comment on the 14 indictees at large and the investigation of 16 persons, which resulted in requests for confirmation of indictments of eight persons. I want to commend the Prosecutor for having completed that task four months ahead of the schedule indicated in our November 2004 completion strategy. The Chambers are now considering those requests. Let me also emphasize that States must cooperate in order to transfer indictees at large to Arusha.

The overview I have just given shows that there is steady progress in Arusha. This week, 16 accused are being transported to and from the courtroom every day. That number will increase to 20 next week. All four courtrooms are being used at maximum capacity. Activities at the ICTR are at an all-time high. There have been some unforeseen problems, but we have addressed them. I am therefore in a position to confirm that the ICTR is on schedule to complete its trials by the end of 2008.

That being said, it is essential that the necessary resources be made available to allow us to complete our task. For instance, the negative effects of the recruitment freeze last year illustrated the importance of States paying their contributions to the ICTR budget.

The completion strategy of the Appeals Chamber is discussed briefly in paragraph 8 of our report. It is premature to go into details at this stage. Let me

simply say that the Presidents of the two Tribunals are in contact about this issue.

I should seize this opportunity to reiterate that the work of the Coordination Council, composed of the President, the Prosecutor and the Registrar, continues to be very useful. It is also important to state that the contribution of the defence teams to the work of the Tribunal is highly appreciated.

The Tribunal continues to appreciate the cooperation of the Rwandan authorities. There is still a steady flow of witnesses from Kigali to Arusha. It is essential that both parties, the prosecution and the defence, receive the necessary assistance in terms of witnesses and documents from Rwanda. That contributes to the integrity and efficiency of the proceedings in Arusha.

There are, from time to time, allegations concerning intimidation of prosecution or defence witnesses. Such allegations are taken very seriously by the Tribunal and are subject to investigations in order to get to the truth of the matter.

These are the most important aspects of the progress made since November 2004. The report provides further details. Comments or questions by the members of the Security Council will be highly appreciated.

The President (*spoke in French*): I thank the President Møse for his report. I now give the floor to the Chief Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, Ms. Carla Del Ponte.

Ms. Del Ponte: It is a great honour to be here again to provide an assessment on the progress made in the implementation of the completion strategy. A written assessment has been distributed, and I now intend to concentrate on the major issues.

Significant progress can be reported on the key components of the completion strategy. All investigations were completed and the last indictments issued by the end of 2004. However, the Council should know that many victim groups, as well as representatives of civil society, simply do not understand how investigations can be closed at this stage. I receive many NGO reports and letters from victims arguing that there are many more individuals who should be indicted and expressing concern about the capacity of the domestic jurisdictions to render justice fairly and effectively. While there is no going back and we are fully committed to the completion strategy, I simply want to underline to the Council the importance of supporting the national jurisdictions and following their work closely to ensure that justice is indeed done.

There have been a number of positive developments since my last report. No fewer than 20 accused have been surrendered since November, including ten who had been fugitives for an extended period. The prosecution has continued to file motions under rule 11 *bis* for referring indicted cases involving mid- and lower-level perpetrators to domestic judiciaries. Motions were also filed proposing the joining of cases with the same crime base so as to avoid repeating trials with similar evidence and witnesses. Last but not least, the lifting of the recruitment freeze has allowed my Office to hire the staff necessary for efficient preparation for and conduct of the remaining trials and appeals.

Unfortunately, those positive developments are overshadowed by the continuing failure of the relevant authorities to arrest and transfer ten fugitives, including those mentioned several times by the Security Council in resolutions adopted under Chapter VII of the Charter. As long as Radovan Karadzic, Ratko Mladic and Ante Gotovina manage to escape justice and defy the international community, the work of this Tribunal will remain unfinished.

Ten days ago, I visited Belgrade, Zagreb and Sarajevo to discuss cooperation with the relevant authorities. In Sarajevo, I also met families of victims of the Srebrenica genocide. Despite all the progress made, it is obvious that the great expectations placed by the victims in the international community and in the International Criminal Tribunal for the Former Yugoslavia have not been met and will not be realized until Karadzic and Mladic are in The Hague. In less than a month, ten years will have passed since Srebrenica happened. There will be commemorations in Srebrenica itself and elsewhere. All those attending will wonder why the individuals primarily responsible for the genocide are still at large, ten years after the fact and ten years after they were indicted. As a sign of protest and in respect for the victims, I have thus decided not to participate in any commemoration of the genocide unless Karadzic and Mladic are arrested.

There has been a major change in the attitude of the Serbian authorities. Access to documents, including military files, and to witnesses is continuously improving. However, the process remains very slow and cumbersome. Most importantly, following my last address to the Council, Serbia has finally started to transfer fugitives and newly indicted persons. Since December 2004, the Serbian Government, alone or with the assistance of the Minister of the Interior of Republika Srpska within Bosnia and Herzegovina, has transferred 14 accused, including half a dozen who have been indicted for Srebrenica. Another seven fugitives are within reach of the Serbian authorities, alone or in cooperation with Montenegro and Republika Srpska within Bosnia and Herzegovina: Karadzic, Mladic, Tolimir, Hadzic, Milan and Sredoje Lukic, and Zupljanin. Karadzic, Mladic and Tolimir are the three accused most responsible for Srebrenica. Prime Minister Kostunica gave me assurances that his Government will deliver on these remaining fugitives, and I expect him to fulfil his commitment. However, I understand he is not willing to carry out arrest operations. Since 25 April, when Nebojsa Pavkovic was transferred to The Hague, there have been no further transfers. That seems to indicate that the policy of voluntary surrenders preferred by the Serbian authorities has reached its limits.

It is essential that the authorities in Podgorica and Banja Luka cooperate more closely with Belgrade and also with NATO and the European Force (EUFOR) in Bosnia and Herzegovina. That is the most promising way to locate Radovan Karadzic. Also, the political support of the international community remains of paramount importance. It is encouraging that in Brussels and Sarajevo I was assured by NATO and EUFOR commanders of their full commitment in respect to this issue.

All my information continues to show that two fugitives, Vlastimir Djordjevic and Dragan Zelenovic, are in Russia. I have passed the relevant information on those two fugitives to the Russian authorities and have expressed my readiness to travel to Moscow to further discuss the matter with them. On 7 June I received a reply from them informing me that the competent authorities continue to conduct their investigative actions with regard to the persons accused by the International Criminal Tribunal for the Former Yugoslavia (ICTY), including Mr. Djordjevic and Mr. Zelenovic. The Russian authorities are confident that the persons who have committed grave crimes to be tried at the ICTY should be the subject of search and prosecution. The Russian authorities also expressed their readiness to further render their assistance to the Tribunal in the investigation and prosecution of the indicted persons.

I remain concerned that the Croatian authorities have not fulfilled their obligation to locate, arrest and transfer Ante Gotovina. In the first part of this year, the efforts made by the authorities were neither proactive nor focused, and several incidents occurred when sensitive information was manipulated so as to obstruct the investigation against Gotovina and his protective networks. There were also media campaigns, sometimes based on confidential documents leaked to the media, that tried to discredit the Tribunal or our partners in Zagreb. That indicates that Gotovina can still count on active support networks, including within the State institutions.

In April, Croatia presented an Action Plan aimed specifically at locating Gotovina. It is my assessment that further serious progress in the implementation of the plan should lead to Gotovina. Prime Minister Sanader assured me of his strong personal commitment in that regard. A few more months will, however, be needed to determine whether the Croatian authorities are, this time, indeed doing their utmost to arrest and transfer Gotovina. Until Gotovina is in The Hague, or until Croatia provides the precise whereabouts of that fugitive, it is impossible to say, however, that Croatia is fully cooperating with the ICTY.

The transfer to The Hague of the 10 remaining fugitives is the most serious obstacle to the completion strategy. It creates uncertainties that are hampering the proper planning of the trials. It may oblige the Court to conduct several trials where a joint trial would have been possible. For instance, Djordjevic could be joined with the six other indictees accused of crimes committed in Kosovo by Serbian forces. Tolimir could be joined with eight other indictees accused of the Srebrenica genocide. Karadzic and Mladic — should they be transferred in the same time period — could be tried together.

Joining cases is a method that my Office intends to use whenever possible so as to save court time while preserving all guarantees of due process. Joining cases is clearly more efficient, since the same crime base does not have to be proved repeatedly and, therefore,

the witnesses need to come to The Hague only once. Three motions for joinder were presented so far; a few others are under consideration. This is one of the areas where my office has placed emphasis so as to do the maximum to implement the second phase of the completion strategy.

Another major development in that context is the referral of cases to domestic jurisdictions. My Office has continued to help build credible domestic jurisdictions by contributing its expertise to training judges and prosecutors. Furthermore, we have participated in the significant efforts made to improve judicial cooperation among prosecutors from Croatia, Bosnia and Herzegovina and Serbia and Montenegro. Last week, we took part in a meeting held in Brijuni, Croatia, aimed at reaching agreements regarding the transfer of proceedings between the countries of the former Yugoslavia. The objective is to ensure that those countries' legal impediments to the extradition of nationals do not lead to impunity.

As a result of those combined efforts, capacities have been developed throughout the region to take over mid- and lower-rank cases that, in accordance with Security Council resolutions, cannot be tried at The Hague. Moreover, in response to my request, the Organization for Security and Cooperation in Europe (OSCE) decided on 19 May to cooperate with my Office in the monitoring of cases transferred to the region. Those positive developments have allowed my Office to further implement its policy of submitting rule 11 *bis* motions to the Chambers for the referral of such cases to local jurisdictions. Four additional motions have been filed since I last reported. All in all, 10 such motions have been filed so far concerning 18 accused.

Very recently, I decided to withdraw one of those motions, concerning three persons accused of crimes committed in Vukovar. That case long ago drew the attention of the international community, since it was the object of Security Council resolution 1207 (1998), back in 1998. During my recent trip to the region, I became convinced of the fact that the so-called Vukovar Three case is extremely sensitive and that any decision by the Chambers to transfer it would provoke deep resentment in one or the other country considered for the transfer — Serbia and Montenegro or Croatia. Therefore, I came to the conclusion that a transfer either to Belgrade or to Zagreb would not be in the interests of justice. In view of these new developments, the best option is to try the "Vukovar Three" at The Hague.

The Chambers took their first decision on a rule 11 *bis* motion on 17 May, whereby they granted the prosecution motion to transfer the Stankovic case to Bosnia and Herzegovina. My Office is still considering the transfer of a few additional cases.

By completing all its investigations by the end of 2004, my Office has demonstrated its commitment to the completion strategy. We have also immediately taken the necessary actions in terms of resources. More than a third of the posts in the investigation division were abolished. Redeployments from the investigation division to the prosecution division are proposed in the context of the 2006-2007 budget, so as to keep within the investigation division only those staff members necessary for the support of trials and for the transfer of cases to domestic jurisdictions. Those movements of personnel will also allow us to cope with a heavier workload in the prosecution division and in the appeals section. Our attention is now fully focused on the conduct of efficient trial and appellate proceedings.

While these internal measures increase the chances that the completion strategy will be successful, we have in past months seen dramatic improvements in external conditions with a strong impact on the completion strategy. Serbia and Montenegro, Croatia and Republika Srpska within Bosnia and Herzegovina are not yet cooperating fully with the ICTY. However, all of them have shown considerable progress in their cooperation. Prime Minister Sanader in Zagreb, Prime Minister Kostunica and Minister Ljajic in Belgrade, and Minister Matjasevic in Banja Luka have demonstrated a genuine commitment to resolving all remaining issues in their cooperation with the Tribunal. The current momentum has to be used so as to bring the remaining fugitives to justice. The international community must play its part in this process to ensure the success of international criminal justice. NATO and the European Union Force's (EUFOR) assets will be invaluable in bringing Karadzic and others to justice. The European Union's power of attraction remains a key political motivation for the countries of the former Yugoslavia, and this should remain the case. The Security Council must focus constant attention on our work.

In mid-July, 10 years will have elapsed since more than 7,900 Muslim men and boys were

summarily executed in what has been recognized by the ICTY as a genocide. A few weeks later, it will be 10 years since two main authors of that genocide, Karadzic and Mladic, have been at large. This situation cannot be tolerated any longer. Now is the time to end impunity. There is momentum now, and we must build on it.

The President (*spoke in French*): I thank Prosecutor Del Ponte for her briefing.

I give the floor to the Prosecutor for the International Criminal Tribunal for Rwanda, Mr. Hassan Bubacar Jallow.

Mr. Jallow: I am pleased to join Judge Erik Møse, President of the International Criminal Tribunal for Rwanda (ICTR), in reporting progress at the ICTR in the implementation of the completion strategy. The Council has before it a revised completion strategy document, as at 23 May 2005. The focus and the strategies of completion remain the same. As time unfolds, however, the statistics and details will continue to be adjusted accordingly.

The end of 2004 marked a significant stage in the implementation of the completion strategy. In accordance with the terms of the strategy endorsed by the Security Council in its resolution 1503 (2003) of 27 August 2003, we were able to conclude all the remaining investigations into the genocide by 31 December 2004. Before then, 16 targets had been under investigation. We have furthermore concluded the evaluation of the evidence available on those cases. I have, based on the evidence and on the law, determined that indictments should be filed in respect of eight of the accused persons who had been under investigation. Accordingly, the indictments were filed by last week for confirmation, ahead of the original deadline, which had been the end of October 2005. The remaining eight files have been closed for lack of prima facie evidence to support any charges. However, I must point out that the conclusion of investigations and the filing of those indictments relate only to charges of genocide, and do not include the allegations against the Rwandan Patriotic Front. Work continues in respect of those allegations.

The conclusion of the investigations will lead to a progressive downsizing of the strength of the Prosecutor's Investigations Division in Kigali and to a redeployment of personnel from that Office to other organs of the Tribunal, in order to reinforce their capacity. However, some investigative capacity will need to be, and will continue to be, retained at the Kigali Office, albeit in declining numbers, until 2010, in order to provide for trial preparation, trial support, appeal support, the tracking and apprehension of fugitives and the management of informants and sensitive witnesses.

The focus of our prosecution work in the months that lie ahead will be the courtroom prosecution of the cases of the 25 accused who are currently on trial and the preparation of the cases of the 16 remaining detainees and the final group of persons indicted for genocide, in order to ensure their trial readiness; the implementation of a more effective tracking and apprehension strategy for fugitives; and the commencement of referral proceedings in respect of indictees to national jurisdictions for prosecution.

The President of the Tribunal has just briefed the Security Council on the progress in the cases since our last report, in November 2004. I therefore do not wish to repeat the details of the progress in those cases. Suffice it to say that at the moment there are 25 accused on trial, which is the highest number that we have ever had in the Tribunal, and that that level is expected to continue until 2006 before it declines.

I also wish to bring to the Council's attention the fact that the Prosecutor's Office negotiated and concluded a guilty plea agreement with one of the accused, Rutaganira; that was the first such agreement in many years, and it led to his conviction. We remain open to such negotiations for guilty pleas. As a matter of fact, discussions are ongoing in respect of other cases.

My Office also proposes to ensure that the cases of the remaining detainees and other indictees are ready for trial by early next year. All the steps necessary to ensure trial readiness will be taken so that some of the cases can commence when judicial time and space in the Trial Chambers is available. For the remainder of 2005, the Office of the Prosecutor is ready to commence trials in respect of cases against five accused persons, three of whom — Zigiranyirazo, Mpambara and Bikindi — have already been scheduled for trial this year.

As I said, the ensuing year is therefore anticipated to be the busiest in the life of the Tribunal, with the largest number of accused ever on trial. But I believe we have adequate capacity at the Office of the

Prosecutor to handle that workload with the lifting of the freeze on recruitment and with appropriate redeployment of staff from the Kigali office.

The tracking and apprehension of the 14 fugitives continues to rank as a very high priority. The organization and strategies of the Tracking Unit have been the subject of review, as a result of which three measures have been taken. The capacity of the Unit has been increased with additional staff. The Unit has also now adopted a strategy of ensuring greater physical presence of its members in the field rather than at headquarters in Arusha and Kigali. Contact with political and law enforcement authorities has been initiated and maintained with the countries in which the fugitives are suspected to be taking refuge. I myself undertook missions earlier this year to five such African countries, where I was able to engage in high-level consultations with the political leadership. I received assurances of cooperation with the ICTR in all the countries concerned. Each of those five countries has agreed to establish a joint mechanism with the Prosecutor's Tracking Team through which they can collaborate in tracking and apprehending fugitives. The creation of those joint mechanisms is in progress. I have also had the opportunity to hold useful discussions with the United Nations Organization Mission in the Democratic Republic of the Congo as well as with the African Union on modalities for collaboration in that respect, particularly relating to fugitives in the Democratic Republic of the Congo.

The implementation of the strategy of referring cases to national jurisdictions, endorsed by the Security Council in resolution 1503 (2003), began in February of this year, when I handed over 15 files to the Prosecutor General of Rwanda. Those files relate to accused persons who had been under investigation but in respect of whom no indictments will be filed at the Tribunal. I propose to hand over an additional 10 files to the Rwandan authorities shortly. All of these form part of the 41 cases that, under the completion strategy, had been earmarked for transfer by referral or by the handing over of files to national jurisdictions. With the eight new indictments, that total will now rise to 45 cases.

A substantial number of the remaining cases for referral relate to indicted persons who are either at large or in custody in the United Nations detention facility in Arusha. The referral of such cases to a national jurisdiction will, upon application by the Prosecutor, be decided by the Trial Chambers. All referrals of indicted persons will be based on whether the accused will have the benefit of a fair trial and whether the accused will not be subject to the death penalty in the country of referral.

As I reported to the Council in November 2004, not many countries have demonstrated willingness to take on cases from the Tribunal or an interest in doing so. Rwanda continues to be the country that is primarily interested. In my discussions with the Rwandan authorities, I have pointed out to them the measures that need to be taken by them in respect of guaranteeing fair trials and the exclusion of the death penalty as a precondition for any applications to be made by the Prosecutor to the Trial Chambers. I await such measures.

Three European countries have also in principle expressed an interest in taking on some of our cases. Six such cases are respectively under consideration by those jurisdictions, and I expect a decision shortly from the authorities as to whether they will accept those cases. One case file that was transferred by my Office in 2004 has already resulted in the indictment and arrest of an accused person in one of the European jurisdictions. His trial is expected to commence shortly.

I propose in the next few months to submit referral applications to the Trial Chambers in respect of some of the remaining 13 indictees. In the event that for any reason — whether due to the reluctance of States to accept the cases or because of an inability to secure referral orders from the Trial Chambers — the transfer of cases becomes impossible, those 13 cases will have to be prosecuted at the Tribunal. That would be an additional workload that will also have to be accomplished by the deadline of the end of 2008.

We remain firmly committed to the completion strategy and optimistic that, with the continued provision of the necessary resources, the deadlines for the conclusion of trials at first instance by end of 2008 and the conclusion of appeals by the end of 2010 can be met. We shall continue to strive relentlessly to that end. All the three organs of the Tribunal, under the leadership of the Coordination Council and its President, Judge Erik Møse, are determined to reach that goal. In that respect, we look forward to a very sympathetic consideration of our budget proposals for

the biennium 2006-2007, which bear on the provision of the necessary resources for completion.

However, we continue to emphasize the need for the fullest international support and cooperation, particularly in respect of the tracking and apprehension of the 14 fugitives who are at large, as well as cooperation in the referral of cases and the relocation and protection of witnesses whose testimony has been crucial to the success of the Tribunal but who often face continuing threats to themselves and their families because of their courage in coming forward to testify. Rwanda, as the State with the primary jurisdiction over those genocide cases and the one, as I said, demonstrating so far the greatest interest in referrals, has indicated that it will require resources to enhance the capacity of its legal and penitentiary system to handle such cases. In resolution 1503 (2003), the Security Council, noting in the tenth preambular paragraph that the

> "strengthening of national judicial systems is crucially important to the rule of law in general and to the implementation of the ICTY and ICTR Completion Strategies in particular",

called in paragraph 1 on

> "the international community to assist national jurisdictions, as part of the completion strategy, in improving their capacity to prosecute cases transferred from the ICTY and the ICTR".

The international community should now fulfil those expectations of eligible and willing States so that the strategy of transfer of cases can become a reality.

Relations between Rwanda and the Office of the Prosecutor and the Tribunal as a whole continue to be very good, with support in the facilitation of access to witnesses and evidence. I would like to seize this opportunity to thank the Security Council, through you, Sir, the Member States and the members of the Secretariat, who all continue to actively support the Tribunal towards the successful implementation and completion of its mandate.

The President (*spoke in French*): I thank Mr. Jallow for his briefing.

Mr. Rostow (United States of America): Let me first thank President Meron, President Møse, Prosecutor Del Ponte and Prosecutor Jallow for their reports and presentations.

Like Judge Meron and Prosecutor Del Ponte, we also are conscious that this year marks the tenth anniversary of the genocidal massacre in Srebrenica. It also marks the tenth anniversary of the signing of the Dayton accords.

The United States applauds and strongly supports the work of both Tribunals. We are pleased by increased operational efficiency, although of course we are always open to new ideas for additional improvements.

This Council has endorsed and continues to support the Tribunals' Completion Strategies. The international community needs to provide assistance so that credible domestic trials of low- and mid-level accused can go forward. The United States is committed to providing such assistance. In addition, of course, the international community also needs to fulfil its obligation to help bring to justice the remaining notorious defendants — Karadzic, Mladic, Gotovina and Kabuga — and others who are at large. In that regard, we especially call on Serbia and Montenegro, Bosnia and Herzegovina, Croatia, the Democratic Republic of the Congo, the Republic of the Congo and Kenya to help bring those defendants to The Hague and Arusha, respectively.

We applaud the recent actions by Serbia and Montenegro and the Republika Srpska to improve cooperation with the Yugoslav Tribunal, while continuing to insist that they help bring Karadzic and Mladic to justice.

We call on the Democratic Forces for the Liberation of Rwanda to end all ties to war crimes defendants and to inform the Rwanda Tribunal about where such defendants can be found.

We have noted the request of President Meron with respect to a new courtroom and additional ad litem judges, and we await with interest a detailed request that includes a demonstration of how those additional resources will improve the Court's efficiency and the implementation of the Completion Strategy.

Mr. Motoc (Romania): I would first like to join others in extending our gratitude to the Presidents of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), Judge Meron and Judge Møse, as well as Chief Prosecutors Ms. Carla Del

Ponte and Mr. Hassan Bubacar Jallow, for their very informative presentations.

I also wish to express commendation of and full support for the important work the two Tribunals have accomplished so far. We take note with satisfaction of the progress achieved by both Tribunals in the implementation of their respective Completion Strategies. We are particularly encouraged by the optimistic note of reports submitted to the Council with regard to the prospects of meeting the time lines indicated in the Strategies.

We are certainly aware of the persistence of a number of factors that might come into play and negatively impact on the process. Obviously, full cooperation with the Tribunals by all countries concerned is first among those.

We welcome, on the basis of the report submitted by the ICTY, the encouraging assessment of cooperation with the Tribunal by the authorities of Serbia and Montenegro. We also note the positive shift in the approach of the authorities of the Republika Srpska within Bosnia and Herzegovina with regard to cooperation with the Tribunal.

Nonetheless, further steps have to be taken, especially insofar as the apprehension and handing over of the high-profile indictees who are still at large are concerned. Within the same broad context of cooperation, I would like kindly to seek further elaboration from the ICTR representatives regarding the prospects for bringing into the Arusha-based jurisdiction the other prominent fugitive, Mr. Félicien Kabuga.

The transfer of cases involving medium- and low-level accused to national jurisdiction is an essential component of the Completion Strategies. We believe that such an approach would not only ease the docket of the Tribunal, but also contribute to fostering local ownership.

We welcome the recent inauguration of the War Crimes Chamber of the State Court of Bosnia and Herzegovina, and encourage the officials of the two Tribunals to pursue their efforts aimed at consolidating the capacities of the domestic criminal justice systems to deal with such cases. At the same time, it is of the utmost importance that all States concerned continue the process of adopting and adapting their legal frameworks so as to comply with existing international legal standards, including the ICTY's statute. Domestic regulations could also be supplemented, to the extent possible, by a network of bilateral agreements among the respective countries, establishing the terms of cooperation in such fields as extradition, mutual legal assistance and witness protection.

It has always been and remains the constant position of my delegation that all those suspected of having committed crimes within the jurisdiction of the Tribunals should be brought to justice. Justice should be served, irrespective of the political, ethnic or cultural affiliation of the alleged perpetrators. Since the indicting stage has come to an end for both the ICTY and the ICTR, some of the main perpetrators of crimes within their jurisdictions might, however, remain outside the scope of the Tribunals' activities.

As we learn from the report submitted by the President of the ICTY, 17 out of 51 individuals currently awaiting trial have been provisionally released. Taking into account the serious nature of the crimes they are accused of, it would perhaps be useful to get an indication of the criteria that informed those decisions.

Finally, I would like to pick up on one issue that has just recently been brought to the attention of the Council, and encourage United Nations Member States to put forward candidatures for the posts of ad litem judges with the ICTY. As the mandates of the current judges have already expired, it would be highly desirable if the General Assembly were to proceed as soon as possible with the election of the new roster, in accordance with the ICTY statute.

Mr. Zhang Yishan (China) *(spoke in Chinese)*: At the outset I would like to thank President Meron, President Møse, Prosecutor Del Ponte and Prosecutor Jallow for their respective reports on the two Tribunals. We have noted that currently both Tribunals are actively taking measures to speed up the trials. China is satisfied in this regard.

The establishment of the War Crimes Chamber of the State Court of Bosnia and Herzegovina is indeed an occasion for congratulations. Its establishment not only will share the workload of the International Criminal Tribunal for the Former Yugoslavia (ICTY) but is also conducive to the implementation of the completion strategy and the enhancing of the judicial capacity-building of the countries in the region. We also endorse the working principle of International Criminal

Tribunal for Rwanda (ICTR) to put the major perpetrators of crimes on trail before the Tribunal while transferring as many other suspects as possible to the national judiciary institutions for trial.

In that connection we would like to thank the various parties for their contribution to the establishment of the War Crimes Chamber of the State Court of Bosnia and Herzegovina. We also wish to thank countries concerned for their assistance to the expansion of the facilities of ICTR. We are happy to see in the report that the countries concerned are further enhancing their cooperation with ICTY. China hopes this momentum will be maintained.

We have also noted that the two Tribunals are conducting appraisals for their future work plans. China will pay close attention to the relevant questions that will impact implementation of the completion strategy. We encourage all practices designed to enhance efficiency and save resources. We believe the implementation of the completion strategies remains the steadfast objective of the Security Council.

Mr. Tarrisse da Fontoura (Brazil): First, I wish to thank the Presidents of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), Judge Theodor Meron and Judge Erik Møse, as well as Prosecutors Carla Del Ponte and Hassan Bubacar Jallow, for their thorough reports on the level of progress achieved in the work of the two Courts and on the prevailing difficulties.

Almost ten years after the establishment of both Tribunals there is no doubt about the importance of their contributions to international law. They can be seen as an example of the commitment of the international community to ensure that those responsible for the most heinous crimes that offend the very essence of human dignity answer for those crimes in public trials.

It is necessary that the Tribunals remain committed to the goals set forth in resolution 1534 (2004) while concentrating resources and efforts to make sure that the most senior suspects are prosecuted. Regarding the ICTY, the increase of 50 per cent in the number of persons awaiting trial — now 51, as compared to 34 in the last report (S/2004/897) — can have an impact on the implementation of the completion strategy. In this regard, Brazil would like to reiterate that insisting on rigid deadlines as set out in the completion strategy may frustrate justice rather than assist the international community in ending impunity. In this respect we support, whenever possible, the referral of the non-senior suspects to national courts in order to expedite trials.

My delegation has always supported the appointment of ad litem judges as a means to maintain the current phase of work of the ICTY, and we hope that the adoption of amendments to its Statute through resolution 1597 (2005) can enhance the level of participation of ad litem judges in the work of that Tribunal. Judge Meron informed us that since the submission of the last report the number of fugitives remaining has been cut in half. While we welcome that major advance in the Court's recent history, we urge States in the region to continue to cooperate with the Tribunal. It is not acceptable that Members of the United Nations disregard obligations under the Charter, the Tribunal's Statute and rules of procedures and the relevant resolutions of the Security Council.

With regard to the ICTR, Brazil welcomes the progress accomplished so far. Judge Møse informed us that in addition to the 50 accused whose trials have been completed or are in progress, there are 16 other detainees awaiting trial in the detention facility in Arusha. My delegation also welcomes the decision of the Prosecutor to refer non-senior suspects to national jurisdiction whenever the country's judiciary structure so allows. The Prosecutor considered that more than 40 suspects could be tried under national jurisdiction. To enable this referral, cooperation with neighbouring countries and other interested countries is fundamental.

As the workload of the Trial Chambers decreases, the focus will shift to the Appeals Chamber, where an increase in the workload is anticipated. My delegation agrees that the number of judges will need to be reviewed at some stage. Brazil will follow the Courts' periodic reports to the Security Council in order to follow up the evolving scenario.

Considering the prospect of the completion strategies for both Tribunals, Brazil understands that it is essential that the Tribunals continue to be able to rely on adequate resources and personnel to perform their functions. Financial difficulties present a threat to the accomplishment of their duties and ability to meet the completion strategies.

The Tribunals for the former Yugoslavia and Rwanda constitute a remarkable achievement in the

fight against impunity, and we are convinced that such experience will contribute to strengthening the activity of the International Criminal Court.

Mr. Mayoral (Argentina) (*spoke in Spanish*): Argentina considers it an honour to have in our midst today the Presidents of the International Tribunals for the Former Yugoslavia and Rwanda, Judge Meron and Judge Møse, as well as the Prosecutors, Ms. Carla Del Ponte and Mr. Hassan Jallow, to whom we have listened with attention.

As the Council is aware, my country, which has a long tradition of support for international law and international justice, has been following actively the work of both Tribunals. That work is without question an important milestone in the evolution of international law. In this context, my delegation wishes to express its thanks for the updated report on the work of both Tribunals and on their completion strategies (S/2005/343 and Corr.1), presented pursuant to the Council's resolution 1534 (2004). Since the information provided is complete and detailed, I have just a few specific comments on issues that my country considers important.

First, with regard to the International Criminal Tribunal for the Former Yugoslavia (ICTY), we appreciate the fact that an increase of 50 per cent in the number of indictees awaiting trial: 51 currently, compared with 34 when the last report (S/2004/897) was reported. We must understand that while that increase may indeed slow the pace of the work, it is important. Thus it seems appropriate to us that two working groups of judges have been established, responsible for studying procedures and practices in order to speed the processing of trials. Along those lines, we believe that the possibility of having recourse to ad litem judges is a way in which to swiftly and efficiently lessen the workload. We hope that the election of ad litem judges — which has had to be postponed more than once because of an insufficient number of candidates — can finally take place. In our view, further modification of the Statute should be considered in all such instances, since the reform implemented under resolution 1597 (2005) has clearly not been sufficient. We do not believe that the election should continue to be delayed.

With regard to the International Criminal Tribunal for Rwanda (ICTR), Argentina takes note of the fact that the number of accused whose trials have been concluded or are under way has now risen to 50, with 16 accused awaiting trial. That indicates to us the Tribunal's workload. We believe that the referral of cases to national jurisdictions is another option that will make it possible to lighten the workload and speed up the cases before the Tribunal. It is important that the Tribunal and the Office of the Prosecutor keep the Security Council informed about their discussions with various States with a view to transferring indictees to national jurisdictions. In this case, it is essential that the Tribunal obtain sufficient guarantees from those national courts that they will ensure respect for due process in all cases.

As stated in the report before us, the ICTR Appeals Chamber's workload, which is shared with the International Criminal Tribunal for the Former Yugoslavia (ICTY), will increase as progress is made in the completion strategy. The report indicates that at some point it will be necessary to increase the number of judges so that they can resolve the submitted appeals by 2010 at the latest. We support that.

The Appeals Chamber will gradually become a key factor in ensuring that the Tribunals can conclude the completion strategy by 2010, as the Security Council called upon them to do in resolution 1503 (2003). I believe it is important that there be a clear procedure in the Statutes and in the Rules of Procedure and Evidence providing for the permanent assignment of judges to the Appeals Chamber. The current lack of a clear mechanism permits the discretionary reassignment to a Trial Chamber of judges currently serving in the Appeals Chamber. That could affect the work of judges in ongoing trials by removing them, without any expressed reason, from the cases that they are hearing. In our view, such a situation should be prevented by correcting the statutes as soon as possible.

In conclusion, Argentina hopes that despite the new factors that, as indicated in the reports, could affect the implementation of the completion strategy, the Tribunals will be able to complete their work promptly, as requested by the Security Council. We must reiterate that the work of both Tribunals deserves Argentina's full support. Undoubtedly, once the pending cases have been finalized, they will constitute a precedent of fundamental value for the work of the International Criminal Court.

Ms. Løj (Denmark): I would like to thank the representatives of the two Tribunals for their written reports to the Security Council and for elaborating further on those reports in their interventions today. That provides us with a clear picture of the Tribunals' achievements so far and of the challenges ahead.

Denmark is a strong supporter of the Tribunals for the former Yugoslavia and for Rwanda. They have made invaluable contributions to ensuring that genocide, war crimes and crimes against humanity do not go unpunished. They are instrumental in the process of national reconciliation that the countries concerned need to go through to come to terms with their past and to look to the future. The impact of the Tribunals, however, goes far beyond the specific cases under their jurisdiction and beyond the specific countries concerned. Their pioneering work has paved the way for the International Criminal Court — a permanent, universal institution standing ready and alert to fight impunity for the most serious crimes.

It is crucial that the Tribunals finalize their work according to schedule. The Tribunals, the countries directly involved and the international community must stand side by side to make that happen. The Tribunals must continue to develop and implement sound and realistic completion strategies ensuring a reasonable match between objectives and resources. They must, at the same time, make sure that justice is served in strict accordance with international standards of due process.

We note with interest the focus of both Tribunals on the referral of cases to competent national courts. We agree that that will strengthen the involvement of national Governments in bringing reconciliation, justice and the rule of law to the countries in question. It is, however, key that the necessary national capacity-building precede such referrals in order to make sure that international standards of justice are also met in the transferred cases. The Security Council and the international community, for their part, must ensure adequate and predictable funding for the Tribunals. We strongly encourage Member States to do their utmost to meet their assessed contributions as a matter of urgency.

The primary task of the Tribunals is to bring to justice "the most senior leaders suspected of being most responsible" for the crimes committed within their jurisdictions. To that end, it is an unconditional responsibility of Member States to cooperate fully with the Tribunals. Full cooperation is critical to ensure that the Tribunals can perform their functions. For the countries of the former Yugoslavia, it is also a precondition for their integration into European and trans-Atlantic structures. Denmark is pleased to note recent positive developments in that region. We strongly encourage the countries concerned to keep those developments on track and to make certain that the remaining indictees are brought to The Hague.

The Tribunals continue to contribute significantly to the fight against impunity. By bringing justice to the victims of the massive atrocities committed in Rwanda and the former Yugoslavia, the Tribunals play a crucial role in the reconciliation processes so direly needed in the aftermath of two of the most abhorrent conflicts since the Second World War. We will continue to follow actively the work of the Tribunals, and we look forward to the next reports from them.

Sir Emyr Jones Parry (United Kingdom): I would like to address each Tribunal in turn, beginning with the International Criminal Tribunal for the former Yugoslavia (ICTY).

Like others, I thank the President and the Prosecutor for their reports on the progress made by the ICTY towards meeting its completion strategy and, in particular, on the completion of investigations by the Prosecutor by the end-of-2004 deadline, both of which are very welcome. We note the Tribunal President's indication that it is too early to say accurately when ICTY will complete its work, but that trials are likely to slip beyond the 2008 deadline into 2009. I know that the President will want to keep the Council closely informed as that position becomes clearer.

The United Kingdom warmly welcomes the establishment of working groups of judges to examine procedures and practices to speed up trials and appeals. We look forward to hearing about the implementation of their recommendations.

The Prosecutor's review of indictments to see whether cases can be joined and the number of charges reduced is very much welcome. It would be helpful to have more details on the projected savings in trial time if they are available.

The President of the Court has mentioned the possibility of building a fourth courtroom to increase trial capacity. The remarkable speed and cost-effectiveness of the installation of such a courtroom at

the International Criminal Tribunal for Rwanda (ICTR) may indeed be a good precedent. Fully costed ideas on that would indeed be very welcome. The recent referral of one case to the Sarajevo War Crimes Chamber is welcome, as is the commitment of the Organization for Security and Cooperation in Europe to assist the ICTY in monitoring any such transferred cases.

This has been a remarkably good six months for the ICTY. Twenty indictees have arrived in The Hague, and now only 10 are at large. It is particularly welcome to hear the Prosecutor's comments on the cooperation which he is now getting from regional leaders. But, as others have underlined, it is a fact that Karadzic, Mladic and Gotovina have still not reached The Hague. A requirement set out on numerous occasions by the Security Council is full cooperation, and that is clearly not yet the case. The United Kingdom agrees very much with the comments made by Ms. Del Ponte.

As we approach the tenth anniversary of Srebrenica, all the countries involved in the conflict of the 1990s have an opportunity to put behind them the events of the past and to move forward. Let us hope that the recent showing in Serbia of a graphic video bringing home the brutality and the actuality of events will actually have the required impact, because the clearest evidence that we can have of meaningful reconciliation is the delivery of those three individuals to The Hague. So, the acknowledgement by the Croatian Government, through the adoption of an action plan, that it can and must do more to locate and arrest Gotovina is welcome. But an action plan in itself is not enough, and we look to the Croatian authorities to take the decisive action required to deliver Gotovina to the ICTY. Croatia will be judged on the concrete results of its action.

The reduction in financial arrears owed to the ICTY over the past 12 months is certainly very welcome, but $71 million remains outstanding. It is incumbent on all Member States to bring their contributions up to date without delay.

Turning to the report of the ICTR (S/2005/336, enclosure), I again thank the President and the Prosecutor for the briefings they have given the Council this morning. I particularly congratulate President Møse on his reappointment as President.

Steady progress is being made towards implementation of the completion strategy. The establishment of the fourth courtroom will further enhance the Court's already good performance in trial turnover. The assistance and the contribution of the Government of Tanzania is very much welcome. For our part, the United Kingdom was pleased, with the Government of Norway, to co-fund the project. But the speed and the cost-effective manner of its implementation has been quite remarkable.

The Prosecutor set out some ideas on an active programme for tracking and arresting the remaining fugitives likely to be brought to trial by the ICTR. It would be very welcome if we could have more information on that. As well, the increasing demands on the Appeals Chamber and the need to increase the number of appeals judges in the future is something which ought to concern us. It would be useful to know whether or not there has been cooperation and consultations between the two Tribunals; it would help to get clarity on that, as well as an estimate of the increase we think would be needed to take us forward on the whole completion strategy.

The transfer of a number of case files to Rwanda raises the question of the death penalty and the capacity of the Rwandan judicial system to cope when faced with perhaps a great many legal cases connected with the genocide. Could we have some comments on that? How does the Prosecutor intend to handle related issues? Those are my detailed questions.

In conclusion, I thank both Tribunals for the tremendous work they are doing and their representatives for the part they play in that.

Mr. Mercado (Philippines): I join other delegations in thanking the Presidents and the Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their thorough but concise reports (S/2005/343, annexes I and II and S/2005/336, enclosure), which have given the Council a better perspective on the workings of both Tribunals and the challenges they face. We also congratulate the two courts for their accomplishments since their last reports.

With respect to the work of the ICTY, the Philippines notes with approval the measures undertaken to implement the completion strategy, specifically the amendment in the Rules of Procedure and Evidence requiring the parties' submissions and the Trial Chamber's judgements of acquittal to be delivered orally. Written submissions and decisions

take up an enormous amount of the Tribunal's time, and justice delayed is justice denied. Although the amendment will entail more preparation for the Prosecutor to ensure that proper evidence is presented, we believe that the amendment to rule 98 bis greatly enhances the Tribunal's capability to dispense justice while maintaining the standards of due process.

We also laud the establishment of the two working groups and stress that all discussion and all recommendations for court procedures and working methods should be done in line with the noble principles under which the Tribunal was established. It may also be prudent to review existing best practices in pre-trial and trial procedures from various national systems, although research on these may entail a considerable amount of time.

We note that the work of the Prosecutor is invariably affected by such changes. The Prosecutor has a key role to play in determining the admissibility of evidence and in referring cases to competent national jurisdictions. We support the remarkable efforts of Ms. Carla Del Ponte in that regard, particularly the latest round of indictments and the motion for referral of the Stankovic case to the Sarajevo War Crimes Chamber. As stated in the report of President Meron (S/2005/343, annex I), the ability of the Tribunal to refer cases to competent national jurisdictions for trial is important not only for the achievement of the completion strategy but also for national healing and the re-establishment of stability and the rule of law in the former Yugoslavia. We congratulate the Tribunal for the significant role it played in the creation of the War Crimes Chamber of the State Court of Bosnia and Herzegovina.

With respect to the report of the International Criminal Tribunal for Rwanda, we commend the court for achieving the targets and projections set out in its completion strategy of April 2004 (S/2004/921, annex). My delegation welcomes the Court's adoption of measures designed to regulate the pre-trial process and to restrict the number of interlocutory appeals. Pre-trial and pre-defence status conferences greatly facilitate and streamline the conduct of trials.

We are pleased to note that the number of indictees at large has gone down from 14 to 10 since the last report. However, we are bothered by the observation that those indictees still at large may never be found. We nevertheless hope that the Prosecutor's more aggressive programme for the tracking and apprehension of fugitives will produce positive results.

My delegation also notes the issues facing the proposed transfer of ICTR cases to Rwanda. It encourages States to cooperate fully with the Prosecutor in discussions regarding the transfer of cases and the transmission of files to other national jurisdictions that comply with the jurisdictional requirement and international standards for fair trials.

The latest reporting period has been a productive one for the ICTY and the ICTR. My delegation congratulates both Tribunals on carrying out their work at full capacity and integrating time-saving measures that do not jeopardize international standards of justice and due process.

My delegation is fully cognizant of the challenges and difficulties in achieving the completion strategy, specifically the requirement for the completion of all trials by 2008. We view the work of both Tribunals as an important contribution in addressing the challenges of justice and ending impunity in Rwanda and in the former Yugoslavia.

As my delegation has stated in the past, we would like the courts to adhere to the time lines established under resolution 1503 (2003). We therefore support all efforts aimed at increasing the efficiency of the ICTY and the ICTR. We also call on all concerned States to cooperate fully with the Tribunals, specifically in bringing the fugitives to justice, as that is crucial in achieving the completion strategy. We also would like to remind them of their obligations to extend full cooperation to the ICTY and the ICTR pursuant to resolution 1503 (2003).

Mr. Rogachev (Russian Federation) (*spoke in Russian*): At the outset, the Russian delegation too would like to express its gratitude to the Presidents and Prosecutors of both Tribunals for today's briefings and for the reports submitted to the Council, pursuant to resolution 1534 (2004). On the whole, we agree with the positive evaluations of the Tribunals' activities, and we note with satisfaction that since the last Security Council discussion, in November 2004, of the implementation of the completion strategies of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and of the International Criminal Tribunal for Rwanda (ICTR), there has generally been a marked improvement in effectiveness in all key areas.

We continue to advocate the mobilization of all resources and the use of all possibilities to ensure scrupulous implementation of the completion strategies of the Tribunals within the time frame set by the Security Council. In that connection, we welcome the establishment of the two Working Groups of Judges. One way in which the Tribunals could be helped to meet the completion strategies' time frame would be the creation of conditions for the transfer of medium and low-level defendants to national courts. In that connection, I would like to point out the growing efforts to strengthening the capacity of the judicial bodies of the republics of the former Yugoslavia.

We welcome the inauguration on 9 March of the War Crimes Chamber of the State Court of Bosnia and Herzegovina to which the ICTY has already referred one case for consideration. We look forward to its successful work. The Tribunal and the States of the region should intensify their cooperation in expediting the transfer of defendants to the judicial bodies of other countries, in particular Croatia and Serbia and Montenegro. In that regard, we have great expectations with regard to strengthened cooperation between States and the Tribunals. This pertains first and foremost to the ICTY, which at previous stages has had particular difficulties in that regard.

Regarding the Russian Federation, official information transmitted to Russia on the alleged presence on its territory of individuals sought by the ICTY will be brought to the attention of the authorities immediately; the search is under way. At present, endeavours are taking place to search for Djordjevic and Zelenovic. On the whole, we are convinced of the need to seek out those individuals who have been indicted and are accused of committing crimes that fall under the jurisdiction of the ICTY and the ICTR, and we are prepared to further render assistance to the Tribunals in completing these tasks.

In conclusion, I would like to mention one current issue: the forthcoming election of ad litem judges to the ICTY. As members know, 11 June marked the expiration of the term of office of the judges in that category, with the exception of nine judges who, pursuant to Security Council resolution 1581 (2005), will continue their work until the conclusion of the cases on which they are engaged. The Security Council has already repeatedly extended the deadline for nominations, but the number of candidates is still much lower than the minimum required by the ICTY Statute for the holding of elections.

This gives us cause for serious concern, since the ability to involve ad litem judges in trials in a timely manner is of great importance for maintaining the pace of the Tribunal's work, and, in the final analysis, for the successful implementation of its completion strategy.

Unfortunately, no views were expressed here regarding the reasons for that. In our view, the Security Council should have a clear understanding of whether the prestige of the Tribunals' judges has been diminished, and of why this is happening. We would explain that phenomenon by the international community's fatigue with regard to ad hoc tribunals. We view that as a strong signal that we should not delay the work of the Tribunals. Perhaps, given that situation, the Council should seek alternative solutions. We would like to hear the view of the Tribunal officials on that issue.

Mr. Kitaoka (Japan): First of all, I would like to thank the Presidents of both Tribunals, Judge Meron and Judge Møse, as well as the Prosecutors of the Tribunals, Ms. Del Ponte and Mr. Jallow, for their reports to the Council.

Japan appreciates the fact that both Tribunals have been making efforts for the efficient conduct of their trial activities. It is particularly noteworthy that the Prosecutors of both Tribunals completed their investigative work at the end of 2004 and submitted the indictments of senior indictees in accordance with their completion strategies.

We appreciate the recent positive developments in the activities of the International Criminal Tribunal for the Former Yugosoavia (ICTY), which include the arrival in The Hague of a number of indictees and fugitives. However, the impact of those new arrivals on the scheduling of trials should be duly addressed in order to ensure that the speed of the trials will not be impeded. We hope that the ICTY will continue its efforts in that direction by considering the schedules of trials well in advance.

We appreciate, as well, the continuous effort of the International Criminal Tribunal for Rwanda (ICTR) to conduct judicial trials as efficiently as possible by utilizing the courtrooms at their full capacity. The efforts by Prosecutor Jallow to visit many countries to

discuss various issues, including the arrest and transfer of fugitives and the transfer of cases from the ICTR to domestic courts, are also welcome. We hope that the ICTR will maintain the current speed of trials as long as possible, and thereby fulfil President Møse's projection that trials and judgements, in the range of 65 to 70 per cent will be completed by 2008.

My Government is concerned about two remarks in the report presented by President Meron. The first is the observation that the ICTY's trial activities at first instance will run into 2009. The second point of concern is the possibility that President Meron raised of establishing a fourth courtroom. With regard to the latter point, careful consideration should be given in the light of the fact that the Tribunal will be proceeding with a phasing-down period in the near future, in accordance with the completion strategy. Concerning the former point, it is recalled that resolution 1534 (2004) emphasized the importance of full implementation of the completion strategies, including the completion of all trial activities at first instance by the end of 2008. The ICTY should take all possible measures to meet this goal, as it has previously confirmed its commitment to the full implementation of the completion strategy.

At the same time, the cooperation of States in the region with the ICTY is essential for the achievement of its objectives. While recognizing that cooperation has improved, Japan believes that those States must further enhance their cooperation in order to expedite the arrest and the transfer of fugitives, especially Radovan Karadzic, Ratko Mladic and Ante Gotovina.The transfer of cases from the ICTY to domestic courts in the region should be facilitated as well.

In that regard, we welcome the inauguration of the War Crimes Chamber of the State Court of Bosnia and Herzegovina, which took place in March of this year. Japan has donated half a million United States dollars for the activities of that Chamber through the United Nations Development Programme (UNDP) Trust Fund. We hope that the international community will provide further assistance to the Chamber.

Let me reiterate the importance of the involvement of local people in the process of bringing about justice. The transfer of cases from international courts to domestic courts will contribute to the process of reconciliation among the people of the region and to the establishment of the rule of law. We hope that this will be facilitated in both the ICTY and the ICTR, while ensuring that international standards of due process and the rights of defendants are maintained. The question of enhancement of the judicial capacity of States in the region should be addressed in that direction, especially in Rwanda and its neighbouring countries. In the case of the ICTR, a traditional judicial system such as Gacaca can contribute to greater involvement of the local people in the process of achieving justice.

I should like to take this opportunity to ask, through you, Mr. President, the Presidents and Prosecutors of both Tribunals about their views on how the people in the region see the work of the Tribunals.

It is time to consider further the future schedules of both Tribunals — that is, the scheduling of appeals cases. Better coordination and scheduling well in advance will be needed to avoid putting too great a burden on the Appeal Chambers of both Tribunals.

When we consider the schedules of the Appeal Chambers, we must also take into consideration the timing of the expiration of the terms of office of the permanent and ad litem judges. It is desirable that the Security Council should consider specific factors in each case, as it did in extending the terms of office of nine ad litem judges in January of this year.

Lastly, let me reiterate that it is essential for us, in assessing the completion strategies of the Tribunals, to duly recognize their current situation and to take stock of the direction in which they headed. In that regard, we strongly hope that the Tribunals will continue to be accountable for their activities to the Security Council as well as to the States Members of the United Nations.

Mrs. Telalian (Greece): Greece, too, would like to thank the Presidents and the Prosecutors of the two ad hoc tribunals — the International Tribunal for the Former Yugoslavia (ICTY) and the International Tribunal for Rwanda (ICTR) — for their detailed reports to the Security Council and their hard work and dedication in challenging impunity and strengthening the principles of international justice.

Greece welcomes the significant progress made by both Tribunals during the past six months towards the implementation of their completion strategies under

Security Council resolutions 1503 (2003) and 1534 (2004).

We note with satisfaction the measures taken by the ICTY to speed up trials and appeals and to increase efficiency so as to complete its work within the time-frame set out in the completion strategy. The possibility of adding a fourth courtroom in order to facilitate a seventh trial is a positive measure in that direction that should be supported.

We are encouraged by the fact that the number of indictees and fugitives who have appeared before the Tribunal has increased considerably during this period. However, this development, as the President of the Tribunal has indicated, will have an impact on the completion strategy, as trials will have to run into 2009.

We believe that the Security Council should give serious consideration to this factor so as to assess the need to adjust the time-frame mentioned earlier in order to facilitate the accomplishment of the Tribunal's mandate.

The inauguration in Sarajevo on 9 March this year of the War Crimes Chamber was a major event. We took note with great interest of the fact that this Chamber has already started its work as regards the prosecution of local crimes. In our view, the referral of cases involving lower- and intermediate-ranking officials from the ICTY to national courts of the former Yugoslavia and, more specifically, to the Sarajevo War Crimes Chamber, pursuant to rule 11 *bis* of the Tribunal's rules of procedure and evidence, will contribute to the consolidation of justice, reconciliation and peace in the region.

We took note with great interest of the fact that one case has already been transferred to the Sarajevo Chamber under that procedure. It is important to note that the Referral Bench, in deciding to refer this case to the domestic authorities, reviewed the existence of certain conditions, such as the compatibility of the laws of those authorities — those of Bosnia and Herzegovina — with the Tribunal's Statute, and the prospects for the accused to receive a fair trial and for his human rights to be respected, including the non-imposition of the death penalty.

With respect to the International Tribunal for Rwanda, we welcome the significant progress and the efforts it has made to increase its efficiency so as to implement the completion strategy. We also note with interest the addition of a fourth courtroom, which will help to speed up trials.

The President of the Tribunal, Mr. Møse, has indicated that, in the coming months, as the workload of the Trial Chambers decreases, a drastic increase in the work of the Appeals Chamber is anticipated. He also emphasized that, at some stage, there will be a need for more judges in the Appeals Chamber. We believe that the Council should seriously consider those concerns, with a view to facilitating the effective functioning of that Tribunal.

One of the most serious obstacles preventing the Tribunals from keeping their completion strategy on course is the fact that some indictees remain at large. We firmly believe that the Tribunals will not be able to accomplish their important task of ending impunity until the principal indictees have been arrested and transferred to the Hague and Arusha, so that justice can be done.

In that connection, the full cooperation of all States with the Tribunals is of great importance. We welcome the fact that, in some cases, that cooperation has improved. However, we urge States to make further efforts in assisting in the arrest and transfer of fugitives and in the provision of missing documentation and access to witnesses. Furthermore, we urge all Member States to meet their financial obligations and to support the Tribunals in order to enable them to accomplish their tasks.

As both Tribunals have entered the most critical and productive stage of their existence, it is important that the Security Council spare no effort to ensure that they accomplish their missions and fulfil their mandates in the most effective way possible, so as to contribute to the accomplishment of international justice.

Mr. Benmehidi (Algeria) (*spoke in French*): I too would like to thank President Meron and President Møse for their presentations, as well as to thank Prosecutors Del Ponte and Jallow. Through them, I would like to commend the efforts of their Tribunals for the Former Yugoslavia and Rwanda both in combating impunity and in ensuring that justice prevails. My delegation attaches great importance to the accomplishment of the mission given to the two Tribunals by the international community and to the

achievement of the goals of the completion strategies for that mission.

We note with satisfaction that the efforts by the International Criminal Tribunal for Rwanda (ICTR) are today enabling it to foresee the possibility of concluding the completion strategy for its work well ahead of the established timetable. The recent commencement of the trial of former minister André Rwamakuba, who is suspected of having played an important role in the 1994 genocide, reinforces that possibility. We are nevertheless aware that the pressure that the Appeals Chamber will face with regard to a certain and considerable increase in its workload may compromise the timetable for its completion strategy. However, we remain confident that the Tribunal will be able to adapt to the new circumstances and will use the flexibility of that strategy to achieve its goals.

Human and logistical resources and financial support should be guaranteed for the ICTR in order to strengthen its projected plans and prevent them being thwarted. In that connection, we welcome the contribution of ad litem judges as well as the new modern courtroom provided to the Tribunal, which will certainly facilitate the completion of its work.

The States concerned should give the Tribunal the necessary political support and cooperation for the arrest and transfer of accused fugitives on their territory. The constraints associated with the competency of the Tribunals and the applicability of national laws to the cases turned over to the jurisdiction of some countries should be solved quickly while, at the same time, respecting international judicial norms. They should not constitute an additional source of delay in the Tribunals' carrying out of their workload.

With regard to the International Criminal Tribunal for the Former Yugoslavia, we welcome the efforts that have been made in connection with its regular procedures to improve working methods and accelerate both trials at first instance and appeals processes. Likewise, we believe that the establishment of the War Crimes Chamber in Bosnia and Herzegovina will contribute to achieving the goals set out during the creation of that tribunal.

We nevertheless continue to be concerned at the delay in the implementation of the completion strategy. In that regard, we believe that full cooperation with the Tribunal by the parties concerned to provide access to documents necessary to apprehend and bring to justice all accused persons is a prerequisite for the achievement of the objectives set out by the international community. The international community should also fully support the Tribunal and, as resolutely as possible, see to it that those still at large are arrested and that justice is done.

The other potential stumbling block confronting the Tribunal pertains to the difficulty of having sufficient candidates necessary for the election of ad litem judges at a time when a significant number of trials may well go beyond the established timetable, thereby compromising the completion strategy.

Mr. Manongi (United Republic of Tanzania): We join others in thanking the Presidents and Prosecutors of the two Tribunals for their oral briefings this morning. We are also thankful for the written report (S/2005/343 and Corr.1) before us.

The report on the International Criminal Tribunal for Rwanda (ICTR) states that 41 cases are earmarked for transfer to national jurisdictions, with 15 cases having been transferred to Rwanda and 10 additional cases to follow shortly. We support the Prosecutor's assertion that it is important to transfer those cases to African countries in which certain suspects are living. We also support the proposition that capacity-building and assistance should be provided to Rwanda and to other national jurisdictions that will take up those trials.

We applaud the various strategies adopted by the ICTR, both in the pre-trial and trial stages, that are meant to expedite the trying of cases. We especially applaud the election of 18 ad litem judges in 2003. That followed the adoption of resolution 1512 (2003), which increased the number of ad litem judges — who can take office at any time — from four to nine. The competence conferred upon ad litem judges to adjudicate over pre-trial matters will go a long way towards helping achieve the Tribunal's completion strategy.

We commend the Governments of Norway and the United Kingdom for their voluntary contributions, which have enabled the ICTR to commence and finish the construction of the fourth courtroom at Arusha. That is also an important contribution to the Tribunal's completion strategy.

On the International Criminal Tribunal for the Former Yugoslavia (ICTY), the arrival at The Hague of an unprecedented number of indictees, bringing the total up to 51 persons awaiting trial, is a good sign that war criminals in the former Yugoslavia will not go unpunished. We commend the establishment by the Tribunal's President of two working groups to examine expediting trials and appeals while maintaining the Tribunal's established regard for due process.

We believe that the Council's April 2005 decision to remove restrictions on the re-election of ICTY ad litem judges and the General Assembly's election of a new pool of ad litem judges in the near future will help the Tribunal achieve its completion strategy. However, we note that the ICTY report does not offer a specified completion framework for its mandate as a result of a number of outstanding issues.

We share the concerns about the inadequate cooperation extended to the Tribunal by some States in the region. We are still concerned that some of the most notorious indictees — Ratko Mladic, Radovan Karadzic and Ante Gotovina — still remain at large. We agree with the assertion that the ICTY will not have completed its mission if those three are not brought to The Hague to face justice. We urge Croatia, Serbia and Montenegro and Bosnia and Herzegovina to cooperate fully with the ICTY to bring all the remaining 10 indictees, including the three leaders, to The Hague as soon as possible. Attempts by those fugitives to outlast the ICTY should never be allowed to succeed.

In early 2005, the United Nations administration lifted the freeze on recruitment of new staff, which had threatened the completion strategies of both Tribunals. We are happy to note that the lifting of the freeze has had positive results on the work of the Tribunals. The ICTR and the ICTY should continue to receive resources to enable them to carry out their functions. In that regard, we appeal to all Member States to pay their contributions to the two Tribunals.

Lastly, we wonder whether the Presidents and the Prosecutors could share with us their views concerning the transfer of cases to national jurisdictions. As the exclusion of the death sentence is a condition to such transfers, what are the pitfalls for such transfers to countries whose legislation does not exclude the application of such a sentence, in view of the fact that such exclusion might establish national double standards for similar crimes?

Mr. Zinsou (Benin) (*spoke in French*): I wish to welcome the Presidents and Prosecutors of the International Criminal Tribunals. We thank them for their reports and for the extremely enlightening information they have given the Council in their briefings on the implementation of the Completion Strategy for their work. We note with satisfaction the tireless efforts being made to expedite the work of the two Tribunals. The progress achieved in the implementation of the Completion Strategies is most welcome in that regard.

We welcome the judicious application of the principle of the heaviest responsibility, the joining of certain trials, and the training activities undertaken to enhance the capacities of national jurisdictions so as to ensure better handling of transferred cases. The establishment of the Sarajevo War Crimes Chamber is a significant example in that regard.

The productive cooperation with some States, leading to the conclusion of agreements for the execution of sentences in other African countries; the appearance before the Tribunals, in particular the Yugoslav Tribunal, of several fugitive accused; and the establishment of working groups to research ways and means of expediting the work are all measures reflecting genuine commitment to doing everything possible to attain the target set by Security Council resolutions 1503 (2003) and 1534 (2004). We consider them to be the manifestations of real progress in the international community's efforts to combat impunity for crimes against international humanitarian law.

We have also noted the great care taken to ensure that transfers to national jurisdictions of cases of lesser responsibility do not take place to the detriment of international standards for rules of proceedings and the execution of sentences. We encourage the International Criminal Tribunals to remain attentive to the way in which national jurisdictions proceed with the cases transferred to them, because that monitoring, in our view, is a guarantee of the legal security of the transferred indictees and encouragement to the national courts concerned to follow good practices. In that regard, we note the manifest transparency of the Tribunals' approach to precisely identifying uncertainties that affect the Completion Strategies. The factors identified demand flexibility and creativity in the management of timetables and deadlines.

We welcome the calm approach taken by the officials of the two Tribunals in handling those uncertainties. We urge them to continue to study those issues so as to make specific proposals to the Security Council at the appropriate time on measures to be taken to address them. In that regard, we look forward with genuine interest to the next reports of the Tribunals, offering approaches to solutions and estimates of additional costs referred to in the reports before us.

At the same time, we wonder about the reasons behind the low number of indictees pleading guilty and the growing number of accused filing appeals. Those two factors are likely to weigh heavily on the timetable of the Completion Strategies and on the Tribunals' budgets. Despite such concerns, we concur with the Tribunal Presidents that the Completion Strategies must not be implemented at the expense of the rules of procedure and human rights. Law and justice must prevail.

In the light of the situation of the two Tribunals, and basing itself on full information, the Security Council should fully assume its responsibilities for the problems raised by the Presidents and Prosecutors of the Tribunals. It is important to maintain pressure on the States concerned to secure the arrest and transfer of the accused to the Tribunals as quickly as possible. The Council should also appeal for the mobilization of the resources necessary to ensuring the best possible operation of the two Tribunals in order to back up their efforts.

In conclusion, we pay tribute to the Presidents, Prosecutors, Registrars, judges and all members of the team of the two International Criminal Tribunals for their devotion to the service of international justice and for their work to bolster national judicial systems, as well as for their invaluable contributions to the consolidation of international peace and security.

The President (*spoke in French*): I shall now make a statement in my capacity as representative of France.

I shall focus on three main comments.

First, of course, I thank the two Presidents and the two Prosecutors for their excellent and highly instructive briefings. I would also note that unquestionable progress has been made since our last meeting in terms of the cooperation of States with the two Tribunals and the working methods of the Tribunals themselves. I will not dwell on those two issues, which have been broadly addressed by other delegations, but I feel that the Tribunals are now in a satisfactory position to cope with the recent increase in the number of cases to be handled, although we must continue to find ways to expedite the work in the interests of justice and reconciliation.

Secondly, it is important for us to remain vigilant concerning the operation of the Tribunals. For example, President Meron noted that the date set for the completion of trials in the first instance might not be met. We count on the Tribunal to minimize the delay and hope that the current circumstances will not jeopardize the final target of completing the work by late 2010.

We have another concern with respect to the Tribunals' operation. We believe that witness protection must remain an ongoing imperative for the two Tribunals. On that point, I might ask the two Prosecutors to describe their main concerns in that area and what recommendations they might wish to make.

Still in the context of vigilance, it goes without saying, of course, that Member States themselves must continue to contribute to the fulfillment of the mission entrusted to the Tribunals, in particular by concluding agreements with the Tribunals on the execution of sentences.

Thirdly, we have all noted that we are now approximately 10 years on. We should send a message of steadfast resolve, above all because, as I indicated earlier, remarkable progress has been made. Allow me, again, to pay tribute to the exceptional contribution of the two Tribunals to combating impunity and strengthening international jurisprudence. We must also remain fully resolute because we can get no satisfaction from the fact that the principal indictees — in particular Karadzic, Mladic, Gotovina and Kabuga — remain at large. Thus, the efforts to secure their transfer to The Hague and Arusha should be redoubled. The timetable we have set for the Tribunals must under no circumstances be impunity be default. The fugitives and the States concerned must be aware that the Council will not lessen its demands.

I now resume my functions as President of the Security Council.

The next speaker inscribed on my list is Mr. Zoran Loncar, Minister of Public Administration and Local Self-Government of the Republic of Serbia, on behalf of Serbia and Montenegro. I invite him to take a seat at the Council table and to make his statement.

Mr. Loncar (Serbia and Montenegro) (*spoke in Serbian; English text provided by the delegation*): Permit me at the outset to express my great pleasure at being able to address the Security Council today. I should like to thank Judge Meron, President of the Tribunal, and Chief Prosecutor Carla Del Ponte for their comprehensive briefings and for submitting reports that are positive for Serbia and Montenegro. Those reports are the result of great efforts over the past year by the Council of Ministers of Serbia and Montenegro, the Government of the Republic of Serbia, of which I am a member, and the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), of which I am also a member.

I should like to highlight just a few facts that illustrate the scope of cooperation between Serbia and Montenegro and the Tribunal and the progress achieved since my previous statement to the Security Council.

Thanks to the great efforts of the Government of the Republic of Serbia and of all other competent authorities of the State Union of Serbia and Montenegro, 13 indictees from Serbia and two from Republika Srpska have voluntarily turned themselves in to the Tribunal since last November as a result of a concerted effort by the Government of Republika Srpska and the Republic of Serbia. I should like to point out that those individuals are mostly high-ranking military and police officers.

As a sign of trust, and in recognition of the consistent and effective cooperation of the Republic of Serbia and the State Union of Serbia and Montenegro with the Tribunal, the Tribunal has temporarily released seven indictees who are awaiting trial. That represents two-way cooperation with the Tribunal, which is perhaps the best example of the positive cooperation of the Republic of Serbia and the State Union of Serbia and Montenegro with the Hague Tribunal. It indicates that the State authorities of Serbia and Montenegro, who have provided guarantees for the indicted persons, enjoy the Tribunal's trust. Moreover, it will encourage other indicted persons wanted by the Tribunal and by the Serbia and Montenegro authorities to turn themselves in voluntarily.

Over the past five years, the Office of the Prosecutor of the Tribunal has submitted to Serbia and Montenegro more than 850 requests for cooperation regarding the provision of documents, the granting of waivers or for other information. Thanks to the recent progress, almost all of those requests have been granted. As many as 290 witnesses have been granted waivers, and since I became a member of the National Council, 84 persons have been granted waivers. Furthermore, the same number of requests for documents have received positive responses. As a result, because of the progress made in cooperation with the Tribunal, there are practically no outstanding requests for cooperation regarding documents. All new requests are processed promptly with the utmost attention by State authorities.

All of that indicates how much the Republic of Serbia and the State Union of Serbia and Montenegro have done over the past year in the area of cooperation with the Tribunal. Of course, all of us in the Government are fully aware that we must continue to cooperate and honour our international obligations. We know very well that this issue will remain unresolved until full cooperation has been achieved, which implies that all indicted persons must end up in The Hague. I should like to take this opportunity to assure the Security Council that the Government of the Republic of Serbia and the State Union of Serbia and Montenegro remain fully committed to honouring all our international obligations concerning cooperation with the Hague Tribunal. The results achieved so far are the best proof of that.

We continue to make every possible effort to track down other indicted persons and to determine whether some of them are hiding in Serbia and Montenegro. Serbia and Montenegro is fully determined to ensure that all those indicted for war crimes are tried, whether by the Tribunal or by the national courts. A proof of that is the recent efficient operation carried out by the State authorities of the Republic of Serbia in which all members of the "Skorpioni" Unit located in Serbia were swiftly arrested following the broadcast of the killing of innocent civilians, which profoundly shocked our public. Those individuals will be tried before the national courts, as will others indicted for war crimes.

From the very beginning, the Government of the Republic of Serbia has emphasized the need to establish mutual cooperation with the Tribunal. We believe that significant steps have recently been taken in that direction. Our mutual cooperation has several aspects, one of which is cooperation between the Office of the ICTY Prosecutor and national judicial authorities in tracking down and prosecuting perpetrators of war crimes. Ms. Del Ponte has stated on several occasions that there has been excellent cooperation between her Office and the Republic of Serbia's Prosecutor's Office for War Crimes. As a result of that cooperation, a number of the cases investigated by the Prosecutor's Office have been referred to the national courts.

The Prosecutor's Office for War Crimes in Belgrade is currently processing 881 war crimes cases. Investigation requests have been filed against 113 persons, and 23 persons have been indicted. The Prosecutor's Office is cooperating with the prosecutors' offices and the judicial and police authorities of other States in the region, primarily the Republic of Croatia and the Republic of Bosnia and Herzegovina. The proceedings before the Prosecutor's Office for War Crimes in Belgrade with regard to the "Ovcara" case have been assessed by all relevant international observers as very successful and as being in accordance with international standards. I am confident that this effective cooperation will be continued and even promoted in the future.

Another form of two-way cooperation — perhaps the most important from the Security Council's perspective — is the referral of cases under rule 11 bis of the Tribunal's Rules of Procedure and Evidence. Even today, speakers have referred to the importance of the Tribunal's completion strategy, and the referral of cases is one of the strategy's most important elements. Although I have already spoken about that, I should like to reiterate that we are prepared for the referral of cases and that we are willing and able to conduct fair and impartial trials against war crimes perpetrators.

I should like to emphasize in particular that we consider it extremely important that the Tribunal refer to Serbia and Montenegro the case against Mrksic, Sljivancanin and Radic for the crimes committed in Ovcara. I believe that the referral of that case to our judiciary would be yet another powerful confirmation of the great progress that has been made in cooperation over the past year.

Finally, I should like to emphasize once again our satisfaction with the reports of the Tribunal's chief officials, which are positive for Serbia and Montenegro. I should also like to assure the Council that as a result of those reports, we will be no less active and will continue to undertake all available measures to achieve full cooperation with the Tribunal and to fully honour our international commitments.

The President (*spoke in French*): Despite the lateness of the hour, I propose to continue this meeting, as it is my understanding that this would be more convenient for our guests. I myself am obliged to leave, and I shall soon turn the Chair over to my colleague Mrs. Brigitte Collet.

The next speaker is the representative of Rwanda, Mr. Martin Ngoga, Deputy Prosecutor-General of the Republic of Rwanda. I invite him to take a seat at the Council table and to make his statement.

Mr. Ngoga (Rwanda): As this is the first time that my delegation has taken the floor in the Security Council this month, we would like to begin by congratulating you, Sir, on assuming the presidency for the present month and by thanking you for calling this meeting on the International Criminal Tribunals for Rwanda and the Former Yugoslavia.

We would also like to thank the President of the International Criminal Tribunal for Rwanda (ICTR), Judge Erik Møse, and Prosecutor Hassan Jallow for their statements and their report (S/2005/336, enclosure) which outlines the completion strategy of the ICTR based on the most current information. We commend the President, the Prosecutor and the Registrar of the Tribunal for their work over the past six months and for their efforts to ensure the successful completion of the Tribunal's work by 2008.

Rwanda remains hopeful that the Tribunal will deliver justice to those who bear the greatest responsibility for the 1994 genocide. We pledge our continued support to ensure that the Tribunal's work runs as smoothly as possible.

According to the report before the Council, the trials of 25 persons have been completed, while the cases of a further 25 are in progress and 16 are awaiting trial, of whom five have been identified for transfer to national courts. A further 14 indicted

persons are still at large, four of whom the Prosecutor intends to transfer to national courts. Eight other cases have been investigated and submitted for confirmation, four of which will be transferred to national jurisdictions for trial. On the basis of that information, the Tribunal expects to have completed trials involving 65 to 70 persons by 2008.

Rwanda is the country in which those horrific crimes were committed. It is in Rwanda that more than one million of our people needlessly lost their lives at the hands of those genocidal killers. It is in Rwanda that more than half a million children were orphaned by those tragic events. It is in Rwanda that thousands of women were widowed and thousands more were repeatedly gang-raped and subsequently contracted HIV/AIDS. It is in Rwanda where the desire for justice is most acutely felt and therefore where the success of the Tribunal's work will ultimately be judged.

While we welcome the assessment of the expected output of the Tribunal by 2008, we regretfully recall that a few years ago the Tribunal had targeted for trial as many as 300 suspects who bear the greatest responsibility for the genocide. That figure was revised downwards over the years, until today we are talking of only 65 to 70 individuals — less than one quarter of the original figure.

It is our assessment that while the number of persons targeted for prosecution has gone down, serious accusations remain against some of the suspects who are no longer being considered for prosecution. Of those still targeted for prosecution, many remain at large and are being provided a safe haven from international justice by States Members of the Organization. We appeal to the Prosecutor to enforce the relevant provisions of the Tribunal's Statute to ensure that all States cooperate and hand over those fugitives.

My Government appeals to the Council to seriously consider this matter with a view to ensuring that no suspect evades justice. As we said at this time last year, the Tribunal's completion strategy should not be viewed as the international community's exit strategy with respect to its obligation to bring all suspects of the crime of genocide to trial at the ICTR, in Rwanda or elsewhere. The serious nature of the crime of genocide requires us to ensure that there is no impunity.

As the Tribunal works towards the completion of its work, we should ask ourselves what impact it has had on justice and reconciliation in Rwanda — the principal reasons for which it was established in the first place. We believe that the impact of the Tribunal on those processes in Rwanda has been constrained because of the geographical distance between Arusha and Rwanda and because of the management and ethical problems that plagued the Tribunal in its early life. It would be most unfortunate for the Tribunal to complete its work without impacting Rwandans as was envisaged when the Tribunal was established.

Since the establishment of the Tribunal in 1994, my Government has strongly advocated the transfer of some cases for trial in Rwanda. It is a widely accepted principle that trials should always take place as close as possible to where the crimes were committed. The crimes presently before the ICTR were committed in Rwanda. It is my Government's belief that trials, especially those targeted for transfer, should all take place in Rwanda. That would address the problem of the impact of the ICTR on Rwanda and advance the cause of justice, while also combating impunity, as not only will justice be done but it will be seen to be done by Rwandans in Rwanda. We also believe that the transfer of trials will promote national reconciliation and healing. It is in that context that the Rwandan Government welcomed the transfer of 15 case files from the ICTR to Rwanda.

On the two issues raised with respect to Rwanda's capacity to handle such cases, first, on several occasions we have informed the ICTR that a moratorium on the death penalty has been in force since 1998 and that, in any case, the Government would be willing to enter into an agreement with the Tribunal not to apply the death penalty in any of the transferred cases. The necessary amendments to existing laws to that effect are being carried out.

Secondly, on the question of the capacity of the Rwandan judicial system to handle such cases, given the large load of thousands of local cases, we wish to bring the following points to the attention of the Council.

First, the strain of cases on the ordinary courts was lifted with the commencement of the gacaca community trials earlier this year. The vast majority of cases are expected to be tried by the gacaca community courts and the appeals process within the gacaca

system. That has freed up the ordinary courts, which will now be able to handle the cases transferred by the Tribunal and the handful of cases that may be referred back to it by the gacaca courts.

Secondly, since 1994 the Rwandan Government has embarked on an intensive programme to build a strong and respected judiciary. In the past 10 years, we have trained several times the number of lawyers and investigators that were trained in the three decades preceding the genocide. With the assistance of a number of friendly countries, we have transformed the infrastructure, particularly courtrooms, and have provided judges and prosecutors with the resources that have made them more effective.

For those reasons, the Rwanda Government believes that it has the capacity — and most important, Rwanda has the will. We are willing to handle all the cases transferred from the ICTR, and we hope that at the appropriate time the Tribunal's Prosecutor will make the decision to transfer all those cases to Rwanda.

This is not to say that everything is perfect. It is a process, and naturally we would welcome international support to enable us to further enhance our capacity, in the same way that the States of the former Yugoslavia are being supported in this process. In the transition from the international process to national judicial processes, Rwanda also hopes to be facilitated in the same way.

We also believe that it is critical that sentences be served inside Rwanda. That is another point that the Rwandan Government has advocated since 1994. Here again, both common sense and natural justice require that sentences be served where the crimes were committed. That would also advance the cause of justice, combat impunity and promote national reconciliation.

In that context, we have welcomed talks with the ICTR on that issue. We would like to remind the Council that a new detention facility, which meets the standards of the United Nations, was completed more than a year ago and has been inspected by ICTR officials. We call for the conclusion of the agreement as soon as possible so that the sentences can be administered in Rwanda in the very near future.

In closing, we would like to put on record our appreciation of the continued improvement in the performance of the Tribunal, including specific measures being adopted for enhancing witness protection. We believe that improvement is the result of reinforced mechanisms of communication between ICTR officials and the Rwandan Government.

The President (*spoke in French*): I now invite the representative of Bosnia and Herzegovina to take a seat at the Council table and to make his statement.

Mr. Kusljugić (Bosnia and Herzegovina): Madam President, at the outset allow me to express my compliments on your country's presidency for the month of June. I would also like to express my gratitude for being given the opportunity to take the floor at today's meeting dedicated to the report of Judge Theodore Meron, President, and Ms. Carla Del Ponte, Chief Prosecutor, of the International Criminal Tribunal for the Former Yugoslavia (ICTY).

I would like to express my gratitude for the comprehensive and informative reports of Mr. Meron and Ms. Del Ponte, as well as for the efforts that have been made in South-Eastern Europe, and Bosnia and Herzegovina in particular, in order to render justice for the victims of crimes and to bring the indicted war criminals to justice. Hopefully, all of those activities will gradually lead to the re-establishment of trust among the peoples, the strengthening of security in the region, post-conflict reconciliation and a better future for our children.

According to positive legislation, the cooperation of Bosnia and Herzegovina with the ICTY has mainly been under the jurisdiction of the entities of Bosnia and Herzegovina, namely, Republika Srpska and the Federation of Bosnia and Herzegovina, especially with regard to the arrest of those indicted for war crimes and access to documentation in archives and to witnesses. The establishment of the State Investigation and Protection Agency has recently resulted in transferring the responsibility for locating and apprehending those indicted for war crimes to the State level.

Both Bosnia and Herzegovina entities have laws on cooperation with the ICTY, thus creating the legal framework for better cooperation in the apprehension and transfer of the accused to the Court and in providing legal assistance, data collection, summoning witnesses, etc.

Bosnia and Herzegovina has passed and adopted the Criminal Code and the Criminal Procedure Code of

Bosnia and Herzegovina, providing definitions and penalties for the criminal acts of war crimes. The Office of the Prosecutor of Bosnia and Herzegovina and the State Court of Bosnia and Herzegovina were established in 2003.

There is a tradition of good cooperation on the part of the Office of the Prosecutor of Bosnia and Herzegovina and the State Court of Bosnia and Herzegovina with the ICTY, particularly when it comes to serving the indictments and delegating cases to the local courts with ICTY consent in order to avoid impunity.

In addition, I would like to underline the activities of the Bosnia and Herzegovina authorities, particularly of Republika Srpska, in the period from 1 January to 31 May 2005, aimed at identifying, locating and arresting persons indicted for war crimes. Investigations and negotiations for voluntary surrender have been undertaken concerning persons indicted for war crimes about whom information exists regarding the fact that they are currently outside Bosnia and Herzegovina.

Other measures and activities related to the conduct of all investigations have been undertaken regarding collecting and providing data on war crimes, and the serving of court summonses for persons from Republika Srpska and Bosnia and Herzegovina to appear at the court as witnesses or suspects.

The most significant activities undertaken in the aforementioned period with respect to finding and arresting persons indicted for war crimes were as follows. On 15 January 2005, Savo Todovic registered at The Hague Tribunal for public indictment. With his family's help, he had surrendered voluntarily to the Ministry of Interior of the Republika Srpska. On 11 March 2005, based on his voluntary surrender, Mico Stanisic, accompanied by officials from the Minister of the Interior of Republika Srpska, was transferred from Belgrade to The Hague for pre-trial confinement. On 14 March 2005, upon establishing contact in Moscow, the Ministry of the Interior of Republika Srpska organized the transfer to The Hague of Gojko Jankovic, who also surrendered voluntarily. On 15 March 2005, Dragon Nikolic was transferred from Belgrade, Serbia, to The Hague; he too surrendered voluntarily. On 23 March 2005, Vinko Pandurevic surrendered voluntarily; he was transferred from Belgrade to The Hague for pre-trial confinement, escorted by the Minister of the Interior of Republika Srpska. On 29 March 2005, Ljubomir Borovcanin agreed to voluntarily surrender to the Republika Srpska authorities; and, with the cooperation with Republika Srpska and Republic of Serbia authorities, Milorad Trbic and Vujadin Popovic surrendered to The Hague on 7 April and 14 April respectively.

As far as providing data and evidence is concerned, in the period from 1 January to 31 May 2005, the Republika Srpska Secretariat for Relations with the International Criminal Tribunal in The Hague and War Crimes Research received eight requests for assistance. In cooperation with the republic's administrative authorities and with the judicial organs, the Republika Srpska Secretariat for Relations with the ICTY fulfilled all eight requirements.

The ICTY sent two requests to the Republika Srpska Secretariat for Relations with the ICTY concerning the collection of contact data aiming at securing the presence of six persons from Republika Srpska on charges brought by the International Criminal Tribunal at The Hague. In cooperation with the Republika Srpska Ministries of the Interior and of Defence and the Office of the District Attorney of Banja Luka, as well as the Commission for Finding Missing and Arrested Persons, the required data have been delivered to the Office of the Prosecutor at the Hague Tribunal.

With the establishment of the War Crimes Chamber within the court of Bosnia and Herzegovina, it is now possible for the International Criminal Tribunal to delegate a certain number of cases to the court of Bosnia and Herzegovina in order to enable the ICTY to carry out its completion strategy. It is anticipated that the War Crimes Chamber of the State Court of Bosnia and Herzegovina will process two categories of delegated cases. These are, first, cases under rule 11 bis of the Rules of Procedure and Evidence of the ICTY for confirmed indictments, and, secondly, cases in various stages of investigation. The court of Bosnia and Herzegovina will also process domestic cases of war crimes and "road map" cases, which constitute a third category.

I would like to draw attention to the problem of financing the work of the special War Crimes Chamber of the State Court. Since the donor conference held last year, a little less than half of the resources necessary for the establishment of the Court have been collected.

Those funds were subsequently spent on arranging a courtroom, a prison unit and the office of the Registrar. However, in Bosnia and Herzegovina there is a general problem regarding prison capacities for serving sentences, especially for prisoners convicted of war crimes and crimes against humanity. Therefore, I would like to renew the plea to donor countries to further commit the funds necessary for the work of the War Crimes Chamber.

The authorities in Bosnia and Herzegovina have always been aware of the obligation to cooperate with the International Criminal Tribunal, regarding the implementation of both the Dayton Peace Accord and the decisions of the Security Council. We are fully aware that cooperation with the Tribunal is one of the major conditions for Bosnia and Herzegovina to become a member of the Partnership for Peace programme and other Euro-Atlantic structures, and especially for the conclusion of a stabilization and association agreement with the European Union.

On our way towards membership of the Partnership for Peace programme and towards association with the Euro-Atlantic structures, a whole range of conditions have been set for Bosnia and Herzegovina which need to be fulfilled, along with a range of standards to be met. Let me assure the Council that the authorities of Bosnia and Herzegovina are aware of the fact that meeting those requirements and standards is primarily in our own interest. One day, the international community will scale down its engagement, the ICTY will close out its cases and archive them for history, and we will have to carry on, living our lives in a community that is built on a solid foundation and that has shed the burdens of the past, in a Europe without borders — a Europe to which we want to belong not only geographically but also in terms of our democratic and educational standards, our culture of tolerance and all the values that characterize the family of European nations.

Finally, I should like to speak in my personal capacity. This is my last appearance before the Council, since in mid-July my tenure as the Permanent Representative of Bosnia and Herzegovina will come to an end. I have addressed this body many times in the past four years on agenda items referring to reports of the Secretary-General, the Special Representatives, the High Representative for Bosnia and Herzegovina, and the President and Chief Prosecutor of the ICTY.

In general, it is evident that some progress — many will argue, substantial progress — has been achieved in peacebuilding in Bosnia and Herzegovina. However, it is also clear that Bosnia and Herzegovina still has to become a sustainable State. It is my firm conviction that the goal of a sustainable State of Bosnia and Herzegovina, as well as lasting peace and stability in the region, cannot be achieved until the major fugitives — above all, Karadzic and Mladic — are apprehended and brought to justice before the ICTY.

Karadzic and Mladic are symbols of a political project that led to genocide in Srebrenica. The fact that they are still at large after 10 years encourages the designers and followers of that project to pursue its further realization, now using different, non-military means, primarily obstructing cooperation with the ICTY. The fact that Karadzic and Mladic are still at large is also a major impediment to starting the process of facing the truth about our past — a process which should enable us to find a common narrative about the events that took place in our country between 1992 and 1995.

I am convinced that, without the Council's determination to support the ICTY's completion strategy, the remaining fugitives will not be apprehended. I agree with the Chief Prosecutor that, if they are not arrested, the work of the ICTY, in spite of the results already achieved, will be an unfinished job in, I will add, an unfinished peace.

I would also ask the current representatives of the States members of the Council to think about the victims, the survivors and their families while deliberating on their future activities in that regard. I also ask them in particular to think, on 11 July, the tenth anniversary of the Srebrenica genocide, about their responsibilities regarding the ICTY's success.

The President (*spoke in French*): The next speaker is the representative of Croatia. I invite him to take a seat at the Council table and to make his statement.

Mr. Nimac (Croatia): Allow me first to commend the President of the International Criminal Tribunal for the former Yugoslavia, Judge Theodor Meron, and the Chief Prosecutor, Mrs. Carla Del Ponte, for their dedication and distinguished service, and to thank them for their detailed reports on the activities of the Tribunal over the past period.

As one of the leading advocates of the foundation of the ICTY, Croatia has a strong interest in the success of the Tribunal's mandate and in the flawless performance of its functions. We are convinced of the Tribunal's important role in facilitating stability and reconciliation in South-East Europe, and therefore Croatia urges the international community to do its utmost to ensure that the ICTY continues to serve in support of the Euro-Atlantic prospects of the countries in the region.

Croatia recognizes and reaffirms the need for full cooperation with the Tribunal, in terms of both ensuring the success of the Tribunal's mandate and our international obligations, and it is engaging in such cooperation. Indeed, Croatia is cooperating fully with the Tribunal, in accordance with its Constitutional Law on Cooperation with the ICTY, confirming our commitment fully to facilitate the accomplishment of the ICTY's mission. Furthermore — and more importantly — full cooperation with the ICTY is a priority for the Croatian Government because of the positive effects of the Tribunal's work on security and reconciliation in South-East Europe and our strong commitment to the rule of law.

In order to resolve the last remaining issue in terms of cooperation with the ICTY, the Croatian Government has designed and begun implementing its action plan, which was presented to the European Union Task Force at the end of April. Croatia is convinced that the implementation of the Action Plan will be conducive to an assessment of full cooperation. We are pleased that the Chief Prosecutor has confirmed our commitment to continuing with the vigorous implementation of the action plan.

As regards other aspects of the report, Croatia takes note of the efforts made by the ICTY to meet the goals set out in Security Council resolutions 1503 (2003) and 1534 (2004). In order to facilitate the exit strategy in line with the dynamics envisaged by the Office of the Prosecutor, Croatia has put in place the necessary capabilities to take over those cases that, in accordance with Security Council resolutions 1503 (2003) and 1504 (2003), cannot be tried in The Hague. An important measure to that effect is the designation of four special courts for war crimes proceedings. In order to ensure sufficient transparency, Croatia has agreed that war crimes trials before its national courts will be monitored by the Organization for Security and Cooperation in Europe (OSCE).

As a further measure of support, Croatia's State Attorney has established a fruitful working relationship and cooperation with the Office of the Prosecutor. To foster cross-border cooperation in war crimes trials, Croatia has signed an agreement with Bosnia and Herzegovina and Serbia and Montenegro on cooperation in war crimes proceedings and in combating organized crime. We are pleased to note that efforts to harmonize legislation relevant to war crimes in the countries of the region are also under way.

Croatia reiterates the importance of the ICTY in the context of post-conflict reconciliation and stabilization in South-East Europe. We reaffirm our determination to support the work of ICTY and to cooperate fully so that its mandate can be successfully completed. In that regard, the Croatian Government would like to reassure the Council of its determination to continue building a constructive partnership, based on trust, with the ICTY prosecution and with the Tribunal as a whole.

The President (*spoke in French*): I shall now give the floor to Judge Meron to respond to the comments made and the questions raised.

Judge Meron: I should like to start by thanking those representatives who this morning made very helpful comments and suggestions about our work. I thank them in particular for their expressions of appreciation for the work we are doing, for their recognition of the constant improvement in our efficiency, for our contribution to combating impunity, and for the very impressive corpus of jurisprudence that we have created.

May I just single out for very special thanks the representative of France, who said, very importantly, that there can be no impunity by default. That is critical. We will try to finish on time, but fugitives should not be allowed to wait us out. I am greatly encouraged by that statement.

(*spoke in French*)

France has always said that the mission of the Tribunal will not be concluded as long as the principal indictees remain at large, and, in particular, as long as Mr. Karadzic, Mr. Mladic, Mr. Gotovina and Mr. Kabuga have not been brought to justice. Indeed, the timetable we have set for the Tribunals cannot lead to impunity by default. I appreciate that comment very much.

(*spoke in English*)

Let me now reply briefly to specific questions asked of me by members of the Council.

The representative of Romania asked about the policy governing provisional release. I would like to draw his attention to rule 64 of our Rules of Procedure and Evidence, which states that a Trial Chamber will grant provisional release only after it is satisfied that the accused will appear for trial and if release will not pose a danger to any victim, witness or other person. The Trial Chamber may impose such conditions as are necessary to ensure the presence of the accused for trial and the protection of others. If we have recently granted more provisional releases than in the past, I believe that is, in part, a reflection of the fact that we can place greater trust in the cooperation and guarantees of States in the area. Also, being a court that treats the concept of human rights and due process as part of its constitutional system, we are of course anxious to be able to grant provisional release when the requirements under the Rules have been satisfied and when we can be sure that the person will return for trial and will not intimidate witnesses. Those are the guidelines that we find in the rule that I have mentioned, namely, rule 65 of our rules of procedure.

The representative of Russia mentioned the fact that, so far, there have not been enough nominations for ad litem judges. I would not like to speculate as to why States have been slow in submitting nominations. I hope that my appeal today and the reminders by the Security Council will achieve their goal and that between now and 7 July, the new final date fixed by the Council, we will have a great number of very eminent jurists presented.

The representative of the United Kingdom raised the question of the number of judges on the Appeals Chamber who will be required to deal with the backlog of cases on appeal. I would like to mention that I already raised that matter in my written report submitted in May. I said then that, in the not-too-distant future, the Tribunal would have to address the matter of speeding up appeals, once it could be foreseen when trial activities would near completion. In preparation for that stage, the Tribunal may examine such options as proposing that the Appeals Chamber operate through two, or even three, benches of five judges each, drawing on judges who have served at the trial level. In that way, we would be able to double, or even to triple, our capacity to dispose of appeals.

I now turn to comments made by the representative of Japan. First, with regard to a fourth courtroom, it is of course true that we are slowly approaching the phasing-down stage in the life of the Tribunal. At the same time, we are an institution that has to maintain full speed, and even go faster, during our final years in order to meet the targets laid down by the Security Council for the completion of our work. We have not yet come to final conclusions on a fourth courtroom; the issue is still before the study group that I mentioned, chaired by my colleague Judge Bonomy.

But this is what I would like to say. First, if we decide on a fourth courtroom— and it is entirely possible we will — we would try to find voluntary contributions for the basic construction costs. Of course, there will be some additional costs and a need for additional staff. I do not expect that those will be major costs. In any event, it is quite clear to me that if we go that way, we would do so only if we were quite convinced that there would in fact be very considerable savings in overall expenses as a result of the fact that the life of the Tribunal would, thanks to the fourth courtroom, be shortened by quite a few months. I know that the representative of Japan, who has been very helpful in making various suggestions on cost efficiency, will be sensitive to that point, namely, that it would simply produce savings.

I can assure the representative of Japan that we are very conscious of the goals established by the Council, as well as of our commitments to do our very best to adhere to the goals and to those dates. In every single one of my appearances before the Council, I have spoken to the various factors that cannot be predicted and that will necessarily impact upon the duration of our work. I think that we, including the international community, have been fortunate enough to see an unprecedented 50 per cent increase in the number of fugitives and indictees who have arrived at The Hague. We have to accommodate those arrivals, and we must do so without cutting corners on due process or human rights. I can assure the representative of Japan that we are determined to minimize any encroachment upon the deadlines or the target date established by the Security Council. But I am sure that all of us here are united in the desire to have fair trials, which require time. It is a question of fairness; it cannot only be a question of the calendar.

I think I have covered the principal questions.

The President (*spoke in French*): I thank President Meron for the additional information he has provided.

I now give the floor to President Møse to respond to comments made and questions raised.

Judge Møse: The International Criminal Tribunal for Rwanda (ICTR) greatly appreciates the positive remarks made by members of the Security Council concerning our work. They will certainly serve as an inspiration and will be carried home to Arusha, where they will provide extra impetus to maintaining our level of work and, to the extent possible, increase it further.

More specifically, I have noted that members of the Security Council have stressed States' obligations to cooperate with the ICTR in order to transfer fugitives to Arusha. Those are very welcome statements. As regards the specific statement by the representative of Romania concerning Kabuga and the prospects for his arrest, I shall leave that to the Prosecutor of the ICTR. I have also noted with pleasure members' statements of the necessity for States to pay their contributions to the ICTR budget.

Thirdly, I note with satisfaction the Rwandan Government's pledge to continue its support to ensure the smooth running of our proceedings. Let me more generally assure each and every member of the Security Council that we will certainly continue to streamline our working methods.

When it comes to transfer, I think it is important to make a distinction between the transfer of files, on the one hand, and the transfer of indicted persons on the other. When it comes to the transfer of files, that depends on the decision of the Prosecutor, and the 15 that have already been transferred to Rwanda and the 10 that are in the pipeline — as explained by the Prosecutor — fall into that group.

Turning now to the transfer of indicted persons, who may be at large or detained. Those are matters that have to be decided by the Trial Chambers, and that depends on decisions following requests by the Prosecutor to the Trial Chambers under rule 11 bis. That provision was amended during our plenary a few weeks ago in order to make it explicit that we will not transfer anyone to a State where there is the risk of the death penalty's being imposed in relation to that particular person. The provision still guarantees that such persons can be transferred only if there are fair trial proceedings in the State concerned.

In particular with respect to the possibility of transfer to Rwanda, which would then be a decision for the Trial Chambers, I note the comments by the Rwandan representative concerning the country's position in relation to the death penality.

Taking up the point raised by the representative of Tanzania that there may be a double standard with respect, on the one hand, to persons have been transferred from the ICTR, who will then not risk the death penalty, and to others, I can only note that the Tribunal can in now way, of course, reduce its standards. It has to stick to that position, which is in conformity with United Nations policy.

As to the perception of the Tribunal in the region, as mentioned by the Japanese representative, it is my firm conviction that we are well perceived in the region. I base that on the numerous visits received from State representatives, non-governmental organizations and civil society, who form a stream of visitors to Arusha, and on their reactions and expressions of appreciation for our work.

I have waited to the end to respond to the questions raised by the President on the issue of witness protection. That is a very important question and was addressed primarily to the Prosecutors of the two Tribunals. I still wish to stress, however, that we take it extremely seriously in the judicial branch of the Tribunal and whenever any of the witnesses express any kind of concern about their protection, orders are immediately given by each Trial Chamber to the Registry to look into the matter and to investigate the issues further. Written reports are then submitted back to the Trial Chambers in order to assess whether any further action is called for.

Those were the questions, I think, addressed to the President of the ICTR. I thank you again, Madam, for this meeting of the Security Council and all members for their valuable comments and questions.

The President (*spoke in French*): I call on Ms. Del Ponte to respond to the comments made and questions raised.

Ms. Del Ponte (*spoke in French*): I, too, would like to thank the members of the Security Council for

their assessments and the views they have expressed today.

I should also like to thank the representatives of the Balkan countries, in particular the representative of Serbia and Montenegro. This is indeed the first time that we can testify on both sides to cooperation that has begun between the Tribunal and that country. In fact, it answers the question raised about success in the Tribunal's activities in the region. I believe that the major success is not only the acknowledgement of what the Tribunal is doing in The Hague, but also the reciprocal cooperation of States with the Tribunal. It is true that an effective reconciliation could be made when the States not only accept the truth emerging from our trials, but also allow their own national systems to proceed with their own war crimes trials.

As to witness protection, it must be said that it is of constant concern to the Office of the Prosecutor. The situation varies depending on the region. The major problems are with issues relating to Kosovo. We found one individual, who was actively involved in threatening witnesses, guilty of contempt of court a few weeks ago. We even had a case wherein a bomb was planted in a witness's car and he lost both legs. Thus, in the case of Kosovo, of course we rely primarily on the United Nations Mission in Kosovo and the Kosovo Force to protect witnesses. We particularly requested protection for a release that we opposed — but which was granted nonetheless — because we felt that the situation was highly threatening to our witnesses. There are witnesses who refuse to appear in court because they have received threats. That is a problem we face, but one which we generally hope to solve on a one-by-one basis.

Regarding transfers of cases under rule 11 bis, only one decision has been made, but has not yet been implemented because it is under appeal. We are awaiting the appeals court decision, so it has not yet taken effect.

As to how we might save time by joining cases, we are required in every single trial to prove the basic crime. If the basic crime is proven once, as I have said, and does not need to be repeated for every indictee, it saves us time because the proof of the basic crime and the repeated testimony of witnesses are the most time-consuming tasks. We therefore believe that, with regard to Srebrenica, for instance, instead of undertaking three trials at each of which we have to prove the same massacre that has already been confirmed under appeal as genocide, there could be only one instance requiring proof of the genocide in Srebrenica.

The President (*spoke in French*): I call on Mr. Jallow to respond to the comments made and questions raised.

Mr. Jallow: I, too, should like to state that we are greatly encouraged by the support and appreciation of all Council members for our work in the International Criminal Tribunal for Rwanda (ICTR) and in the International Criminal Tribunal for the Former Yugoslavia (ICTY). Members' comments will serve as a further source of encouragement for us in Arusha.

There are three issues, raised by many representatives, that I would just like to comment on briefly. First, there is the question of the prospects for the arrest of fugitives; then there is the issue of transfers of cases to national jurisdictions for prosecution; and finally, there are concerns relating to witness protection.

Mr. Kabuga, of course, continues to be a number-one priority on the list of fugitives for the ICTR; he is our top priority and the most senior person among all the fugitives. We continue to make every possible effort to look for him and for the others.

Of course, there are many challenges in tracking these fugitives. We have a Tracking Unit, which tries to gather information and intelligence on their whereabouts and their movements. The Unit itself is not responsible for arrests; it works with national police authorities, providing them with information so that arrests can be effected. There are challenges in gathering the information and in locating the people, and there is a need for the fullest support from national law enforcement authorities and national political authorities if we are to make progress on these arrests.

However, I am optimistic that, with our new strategy of enhancing the Unit's capacity and securing the commitment of the political and law enforcement authorities in the countries concerned, there is a good chance that we can make some good progress in this area this year. Sometimes it is not just a matter of cooperation by States. For example, sometimes fugitives are very difficult to locate. We are aware that a number of them are in the Democratic Republic of the Congo in areas that remain inaccessible even to the

authorities themselves, so it is not just a matter of securing State cooperation. In the case of the Democratic Republic of the Congo, our intelligence occasionally tells us that a number of them are located in the eastern part of the country, which is apparently beyond the control of the authorities themselves. But we rely essentially on State cooperation, and I believe it would be good if the Council could reiterate that States must live up to their responsibilities to help the two Tribunals effect the arrests of these fugitives when they are located. For our part, if we discover any shortcomings in the discharge of those obligations, we will not hesitate to bring it to the attention of the Council for its support.

Regarding transfers, in addition to what Judge Møse explained, all I would like to say is that we have indicated that certain legislative and administrative measures need to be taken, particularly in the case of Rwanda, in order to comply with certain standards for fair trial and in relation to the death penalty. I very much welcome the statement made by our friend the Deputy Prosecutor-General of Rwanda that legislative measures will soon be taken in that respect. Once they are in place, I should be able to consider making applications to the Trial Chambers with regard to transfers of people who have already been indicted. Then it will be up to the Trial Chamber to make a final decision as to whether or not such transfers will be effected.

Regarding the issue of double standards in relation to the death penalty, the United Nations does not, of course, accept the death penalty, as a matter of respect for fundamental human rights, so the Tribunal cannot effect any transfer to a jurisdiction where there is a risk that the person in question will be exposed to the death penalty. That could give rise to a situation in which our transferees would have the benefit of not being subjected to the death penalty, whereas perhaps locals who have been prosecuted in the national system might be subjected to the death penalty. But that is the situation as it exists. If we want to effect any transfers, we must get the States concerned to make an exception for our prisoners. That would not be an unusual arrangement, since States make that sort of exception in extradition arrangements between themselves. A State that does not recognize the death penalty often extradites a prisoner to another State that recognizes the death penalty, subject to its not being imposed on the prisoner. So it would not be a very unusual arrangement.

With regard to witness protection, it is a very important issue. The efficiency of the Tribunal and the integrity of its proceedings depend on the free flow of witnesses who come forward to give their evidence without interference or intimidation. Therefore, it is very important that there be an effective system of witness protection. We have been receiving complaints in the Tribunal concerning alleged interference with witnesses and alleged intimidation of witnesses not just of the prosecution, but also of the defence. Some of those complaints are currently being investigated by my Office. I can assure the Council that if the case is established, the rules allow the prosecution of such people, and we will make sure that we take the necessary steps to protect the integrity of the process.

Beyond prosecution, of course, it is important that there be an effective witness protection system in the Tribunal. Judge Møse explained to the Council the measures that the Trial Chambers can order. But that also be an effective system of protecting them in the countries where they reside. In this case, most of them reside in Rwanda. There needs to be a system there to protect them before and after they have given evidence.

We also need to look at the possibility of relocating witnesses to third countries. It may difficult to protect some of them in their countries of residence, so there is always the need to consider the possibility of relocation. My Office has made a number of requests to certain countries to accept the relocation of witnesses and/or their families for security reasons. Here, again, I would like to appeal to the Council and, through the Council, to Member States to consider such requests with the understanding that they are important to the integrity of the process. If witnesses and their families are not protected, some of them may not come forward to testify, and that would affect the outcome of the process itself.

Those are the few issues on which I wanted to comment.

I would like to thank all the members of the Council for their support.

The President (*spoke in French*): I thank Mr. Jallow for the clarifications he has provided.

I take this opportunity, on behalf of the Security Council, to thank Judge Meron, Judge Møse, Ms. Del

Ponte and Mr. Jallow for their contributions to the Council's deliberations.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 2 p.m.

United Nations S/PV.5200

Security Council

Distr.: General
15 June 2005

Original: English

Official communiqué of the 5200th (closed) meeting of the Security Council

Held in private at Headquarters, New York, on Wednesday, 15 June 2005, at 10 a.m.

In accordance with rule 55 of the provisional rules of procedure of the Security Council, the following communiqué was issued through the Secretary-General in place of a verbatim record:

"On 15 June 2005, the Security Council, pursuant to annex II, sections A and B, of resolution 1353 (2001), held its 5200th meeting in private with the troop-contributing countries to the United Nations Disengagement Observer Force (UNDOF).

"The Security Council and the troop-contributing countries heard a briefing under rule 39 of its provisional rules of procedure by Mr. Hédi Annabi, Assistant Secretary-General for Peacekeeping Operations.

"Members of the Council, Mr. Annabi and representatives of participating troop-contributing countries had a constructive exchange of views."

05-38542 (E) 150605

Security Council

Sixtieth year

Provisional

5201st meeting

Wednesday, 15 June 2005, 3 p.m.

New York

President:	Mr. De La Sablière	(France)
Members:	Algeria	Mr. Benmehidi
	Argentina	Mr. García Moritán
	Benin	Mr. Zinsou
	Brazil	Mr. Tarrisse da Fontoura
	China	Mr. Zhang Yishan
	Denmark	Mr. Faaborg-Andersen
	Greece	Mrs. Papadopoulou
	Japan	Mr. Kitaoka
	Philippines	Mr. Mercado
	Romania	Mr. Motoc
	Russian Federation	Mr. Konuzin
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United Republic of Tanzania	Mr. Manongi
	United States of America	Mr. Gerald Scott

Agenda

Letter dated 31 March 1998 from the Chargé d'affaires a.i. of the Permanent Mission of Papua New Guinea to the United Nations addressed to the President of the Security Council (S/1998/287)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

05-38509 (E)

The meeting was called to order at 3.15 p.m.

Adoption of the agenda

The agenda was adopted.

Letter dated 31 March 1998 from the Chargé d'Affaires a. i. of the Permanent Mission of Papua New Guinea to the United Nations addressed to the President of the Security Council (S/1998/287)

The President (*spoke in French*): I should like to inform the Council that I have received a letter from the representative of Papua New Guinea, in which she requests to be invited to participate in the consideration of the item on the Council's agenda. In accordance with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection it is so decided.

At the invitation of the President, Ms. Takaku (Papua New Guinea) took a seat at the Council table.

The President (*spoke in French*): The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

After consultations among members of the Security Council, I have been authorized to make the following statement on behalf of the Council:

"The Security Council welcomes the First General Elections for the President and Members of the House of Representatives of the Autonomous Region of Bougainville, held from 20 May through 9 June 2005, and considers that they were competently and transparently conducted, as noted by the International Observer Team. The Council congratulates the Autonomous Bougainville Government and the people of Bougainville on this achievement and takes note that these elections, which reflect the expressed will of the people of Bougainville, mark a significant and historical landmark in the Bougainville peace process and make it possible to enter into a new stage for further implementation of the peace agreement.

"The Council further welcomes the inauguration of the Autonomous Bougainville Government in its full capacity and affirms its continuing support for the people of Bougainville.

"The Council urges those who did not participate in the electoral process to respect the outcome of the elections and support without delay the Autonomous Bougainville Government in its peacebuilding efforts.

"The Council pays tribute to the efforts of the Government of Papua New Guinea and the Bougainville leaders for fully implementing the Bougainville Peace Agreement. The Council commends the support by the international community, in particular the significant contributions made by the countries in the region and partners in the donor community, as well as the United Nations. The Council also expresses its appreciation for the commendable role played by the Commonwealth and the Pacific Islands Forum in dispatching electoral observers for the smooth conduct of the elections.

"The Council notes with satisfaction that the performance of the United Nations Observer Mission in Bougainville (UNOMB), as well as that of its preceding United Nations Political Office in Bougainville (UNPOB), manifested that a small United Nations special political mission with a clearly defined mandate can make a critical contribution to a regional conflict resolution effort in an efficient and effective manner.

"The Council encourages the ongoing support and commitment by the international community to the efforts by the Government of Papua New Guinea and the people of Bougainville in pursuit of their economic and social development, as well as for a sustainable peace in the region."

This statement will be issued as a document of the Security Council under the symbol S/PRST/2005/23.

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 3.20 p.m.

United Nations S/PV.5202

Security Council

Sixtieth year

Provisional

5202nd meeting

Wednesday, 15 June 2005, 3.20 p.m.

New York

President:	Mr. De La Sablière	(France)
Members:	Algeria	Mr. Benmehidi
	Argentina	Mr. García Moritán
	Benin	Mr. Zinsou
	Brazil	Mr. Tarrisse da Fontoura
	China	Mr. Zhang Yishan
	Denmark	Mr. Faaborg-Andersen
	Greece	Mr. Vassilakis
	Japan	Mr. Kitaoka
	Philippines	Mr. Mercado
	Romania	Mr. Motoc
	Russian Federation	Mr. Konuzin
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United Republic of Tanzania	Mr. Manongi
	United States of America	Mr. Gerald Scott

Agenda

The situation in Cyprus

Report of the Secretary-General on the United Nations operation in Cyprus (S/2005/353)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

05-38521 (E)

The meeting was called to order at 3.20 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in Cyprus

Report of the Secretary-General on the United Nations operation in Cyprus (S/2005/353)

The President (*spoke in French*): The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them the report of the Secretary-General on the United Nations operation in Cyprus (S/2005/353). Members also have document S/2005/382, which contains the text of a draft resolution submitted by the United Kingdom of Great Britain and Northern Ireland.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. I should like to inform the Council that, in my capacity as President of the Council, I have met with the representatives of the parties, who have confirmed to me that they maintain their well-known positions vis-à-vis the item on the Council's agenda. On the basis of those meetings, as President, with the consent of the members of the Council, I have concluded that the Council can proceed to take a decision on the draft resolution before it. Unless I hear any objection, I shall now put the draft resolution to the vote.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour:

Algeria, Argentina, Benin, Brazil, China, Denmark, France, Greece, Japan, Philippines, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America

The President (*spoke in French*): There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 1604 (2005).

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 3.25 p.m.

United Nations S/PV.5203

Security Council

Sixtieth year

Provisional

5203rd meeting

Wednesday, 15 June 2005, 3.25 p.m.

New York

President:	Mr. De La Sablière	(France)
Members:	Algeria	Mr. Benmehidi
	Argentina	Mr. García Moritán
	Benin	Mr. Zinsou
	Brazil	Mr. Tarrisse da Fontoura
	China	Mr. Zhang Yishan
	Denmark	Mr. Faaborg-Andersen
	Greece	Mr. Vassilakis
	Japan	Mr. Kitaoka
	Philippines	Mr. Mercado
	Romania	Mr. Motoc
	Russian Federation	Mr. Denisov
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United Republic of Tanzania	Mr. Manongi
	United States of America	Mr. Gerald Scott

Agenda

The situation in Burundi

Letter dated 11 March 2005 from the Secretary-General addressed to the President of the Security Council (S/2005/158)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

05-38527 (E)

The meeting was called to order at 3.25 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in Burundi

Letter dated 11 March 2005 from the Secretary-General addressed to the President of the Security Council (S/2005/158)

The President (*spoke in French*): I should like to inform the Council that I have received a letter from the representative of Burundi, in which he requests to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

On behalf of the Council, I extend a warm welcome to His Excellency Mr. Didace Kiganahe, Minister of Justice of Burundi.

At the invitation of the President, Mr. Kiganahe (Burundi) took a seat at the Council table.

The President (*spoke in French*): In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Ralph Zacklin, Assistant Secretary-General for Legal Affairs.

It is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2005/158, which contains the text of a letter dated 11 March 2005 from the Secretary-General addressed to the President of the Security Council transmitting the report of the assessment mission dispatched to Burundi with the objective of considering the advisability and feasibility of establishing an international judicial commission of inquiry.

At this meeting, the Security Council will hear a briefing by Mr. Ralph Zacklin, Assistant Secretary-General for Legal Affairs. I now give him the floor.

Mr. Zacklin: I shall be brief. The report of the assessment mission, which was led by Assistant Secretary-General Kalomoh of the Department of Political Affairs in May of 2004, is before the Council and is self-explanatory. I will focus my remarks on the judicial and non-judicial mechanisms that have been recommended and place them in their national and international contexts.

The request in July 2002 by the then-President of Burundi, Pierre Buyoya, for the establishment of an international judicial commission of inquiry, which was foreseen in the Arusha Peace and Reconciliation Agreement, must be considered in the light of Burundi's history of ethnic conflict, the events that have taken place since the conclusion of the Arusha Agreement in 2000 and the experience gained by the United Nations in promoting justice and the rule of law over the past 12 years. It should also be examined against the background of four international commissions of inquiry established between 1993 and 1995, three of which were at the request of the Council.

For all of their differences, the four commissions shared similar features. Their subject matter and their temporal jurisdiction were limited to the events of 1993, namely, the coup d'état, the assassination of the President of Burundi and the massacres that followed. As the earlier 1972 massacre of Hutus was outside their mandate, a legal determination that the crime of genocide had been committed in Burundi was made only in respect of the 1993 massacres of Tutsis. While all four commissions recommended that if impunity is to be eradicated those responsible should be brought to account, no action has been taken on those recommendations by any United Nations organ.

In such a deeply divided society, where inter-ethnic killings in 1965, 1972, 1988, 1991 and 1993 have formed part of a dreadful and deeply disturbing repetitive cycle, limiting the mandate of any inquiry to a single cycle of massacres and characterizing it — and it alone — as genocide was considered by many of the mission's interlocutors in Burundi as a partial and biased account of the events. The demands for the establishment of a commission of inquiry whose temporal jurisdiction extends over four decades of

Burundi's recent history are thus an appeal for fairness in establishing and recounting the historical truth and putting the 1993 massacres in a broad historical perspective.

Against that background, the Secretariat assessment mission was mandated by the Council to determine the advisability and feasibility of establishing yet another commission of inquiry and to consider the relationship between the international judicial commission of inquiry and the national truth and reconciliation commission envisaged under the Arusha Agreement. Based on extensive consultations with representatives of the Government, political parties and civil society at large, and convinced of the acute need to support the peace process and, in the words of the Council, foster "truth and reconciliation while achieving justice" (*S/2004/72, annex, para. 2*), the mission considered modalities for establishing a twin accountability mechanism to clarify the historical truth, investigate the crimes and bring to justice those responsible.

The mission has accordingly recommended the establishment of a non-judicial accountability mechanism in the form of a truth commission, and the establishment of a judicial accountability mechanism in the form of a special chamber within the court system of Burundi. The mission recognizes that this proposal is a departure from the letter — although not the spirit — of the Arusha Agreement. It was nevertheless convinced that the establishment of the two commissions envisaged under the Arusha Agreement, having virtually identical temporal and subject-matter jurisdiction, including powers of investigation, would create the inevitable and undesirable risk of overlapping jurisdictions and the possibility of contradictory findings, and would represent a misuse of scarce resources. Given the state of the local administration of justice in Burundi, it also concluded that the likelihood of a local trial process meeting international standards of justice was questionable.

The proposed truth commission would be established under the existing Burundian law, revised as appropriate. It would be composed of five members: three international and two national commissioners. The mandate of the commission would be to establish the historical facts and determine the causes and nature of the conflict in Burundi, classify the crimes committed since independence in 1962 and identify those responsible.

The experience gained in establishing parallel judicial and non-judicial accountability mechanisms in Sierra Leone and East Timor will be helpful in determining the relationship between the truth commission and the proposed judicial accountability mechanism. The expeditious establishment of the truth commission for Burundi will ensure that, by the time a special chamber is established, the results of the investigations carried out by the commission could be shared with the prosecutor of the special chamber.

As a matter of sequencing, it is possible that the two mechanisms will operate simultaneously for a certain period of time. Should there be concurrent operation, the modalities for cooperation could include a referral of cases from the commission to the chamber, the sharing of information and evidentiary material and, where appropriate, the sharing of services, knowledge and expertise.

In deciding to recommend a special chamber within the court system of Burundi, the mission has opted for a judicial accountability mechanism located in the country and forming part of the Burundian court system. It is envisaged that the special chamber would have the competence to prosecute those bearing the greatest responsibility for the crime of genocide, crimes against humanity and war crimes committed in Burundi. Its temporal jurisdiction would be limited to specific phases of the conflict, and would include, as a minimum, the events between 1972 and 1993, inclusive.

The legal basis for the establishment of the special chamber and the applicable law governing its operation will be the Burundian law, with the necessary modifications introduced to ensure procedural guarantees of fair trial and due process of law. In this connection, I should point out that, based on existing United Nations practice, in order for the United Nations to cooperate in the establishment of the special chamber, its founding instrument will have to exclude the death penalty from the sentencing framework and declare any amnesty given to genocide, crimes against humanity and war crimes invalid before the chamber.

As in the case of the truth commission, the composition of the special chamber would be mixed, with a majority of international judges and an international prosecutor and a registrar. It is envisaged

that the prosecutor's office and court management would include a substantial international component working alongside Burundi nationals.

In proposing both a judicial and a non-judicial accountability mechanism, the mission has taken into account the Arusha Agreement, the needs and expectations of the Burundians so clearly expressed to the mission, the capacity of the Burundian administration of justice, established United Nations principles and practices and the practicality and feasibility of any proposed mechanism.

In so doing, it has attempted to apply the lessons learned from the United Nations experience in establishing international tribunals and transitional justice mechanisms since 1993. In an integrated approach to justice and the rule of law in post-conflict societies, the establishment of a judicial accountability mechanism clearly cannot be viewed in isolation, but must be seen as part of a whole, placed in the general context of overall judicial reform and capacity-building and pursued in tandem with other transitional justice and rule of law initiatives.

As part of this comprehensive approach to justice and the rule of law, properly organized and implemented, the establishment of a truth-telling mechanism and a special chamber in the court system of Burundi would have the added value of enhancing the capacity of the Burundian administration of justice, strengthening the judicial sector and leaving behind a legacy of international standards of justice and a core group of experienced judges, prosecutors, defence counsel and court managers.

The establishment of such mechanisms for Burundi with mixed composition will serve to promote objectivity, impartiality and credibility. At the same time, it will promote a sense of national ownership through participation of Burundian nationals in both processes. This sense of ownership is of critical importance, and it cannot be emphasized too strongly that the success or failure of such mechanisms will depend on the degree to which Burundi as a whole embraces the proposals. Given the deep ethnic divisions within Burundian society and the mutual distrust between the two ethnic groups, the mission strongly urges that the judges, prosecutor and defence counsel selected be known for their integrity, objectivity and impartiality and recognized in Burundi as transcending the ethnic divide.

I would be remiss if I did not say a few words about funding. As national entities, neither accountability mechanism for Burundi would be entitled to financing through assessed contributions. It is obvious, however, that the establishment of any accountability mechanism for Burundi will have to rely, virtually in its entirety, on international funding. There are a number of recent examples of both judicial and non-judicial accountability mechanisms being funded by voluntary contributions from Governments or by a mixture of such contributions and institutional support from the international and regional intergovernmental machinery. While that may not be ideal, if there is a true commitment on the part of Governments and the existing institutional framework in the rule-of-law sector, it can be done. What is important is that whatever mode of financing is utilized, there should be viable, sustained funding that will permit the mechanisms to take root, fulfil their mandates and create the desired legacy of truth, reconciliation and justice.

The report of the assessment mission has presented a comprehensive approach to the pursuit of truth and justice in Burundi. If that approach is acceptable to the Council, it should mandate the Secretary-General to engage in negotiations with the Government of Burundi on the practical implementation of the proposal to establish the truth commission and the special chamber with a view to concluding an agreement with the Government of Burundi on the terms and conditions for United Nations cooperation in the establishment and operation of the truth commission and the special chamber. It goes without saying that such a process should be based on a broad-based, genuine and transparent consultation with a range of national actors and civil society to ensure that the general legal framework for the establishment of judicial and non-judicial accountability mechanisms reflects the views and wishes of the people of Burundi and that the sense of national ownership is deep and genuine.

The President (*spoke in French*): I thank Mr. Zacklin for his comprehensive briefing.

As there is no list of speakers for the Council members, I should like to invite them to indicate to the Secretariat if they wish to take the floor.

I now give the floor to Mr. Didace Kiganahe, Minister of Justice of Burundi.

Mr. Kiganahe (Burundi) (*spoke in French*): On behalf of the Government of the Republic of Burundi, which it is my honour to represent here, I should like first to congratulate France on its presidency of the Security Council this month and to thank the its predecessor, Denmark, for its excellent work in May.

After two years of intense negotiations, the people of Burundi, in August 2000, reached the Arusha Peace and Reconciliation Agreement in order to put an end to the deep-rooted causes of the continuous state of violence, insecurity and political instability. Following an in-depth analysis of the historic causes of the conflict, the parties to the negotiations in Arusha agreed, inter alia, to the request of the Transitional Government for the establishment by the Security Council of an international judicial commission of inquiry into the genocide, war crimes and other crimes against humanity. The commission would be mandated to investigate and establish the facts for the period from the country's accession to independence to the signing of the Arusha Agreement, to qualify the crimes, to bring to justice those responsible, and to submit its report to the Security Council.

The Burundian parties to the negotiations also agreed that the Government of Burundi should request the Security Council to establish an international criminal tribunal to bring to justice and punish the guilty should the report establish that acts of genocide, war crimes and other crimes against humanity had occurred.

Lastly, the parties to the Arusha negotiations agreed to create a national truth and reconciliation commission to investigate and establish the truth about the grave acts of violence committed during the cyclical conflicts that cast a tragic pall over Burundi from independence to the signing of the Arusha Agreement, to classify crimes other than genocide, crimes against humanity and war crimes, to establish accountability, to identify both the perpetrators and victims of such crimes, to propose means of arbitration and reconciliation, and to clarify the history of Burundi, going back as far as possible in order to educate the people of that country about their own past.

At the request of the Transitional Government, the Security Council in May 2004 dispatched an assessment mission to Burundi to consider the advisability and feasibility of establishing an international judicial commission of inquiry. We meet here today to consider the report submitted by the mission.

I should like to thank the Security Council for having acceded to the request of the Government of Burundi and for having thereby made a substantial contribution to the implementation of the Arusha Agreement. The Government of Burundi has also asked me to congratulate the members of the Kalomoh mission on the quality of their report and the wise proposals they have submitted to the Security Council.

Having described the political developments of recent years and indicated the shortcomings of the mechanisms proposed in Arusha, the mission report recommends the establishment of a single commission to establish the truth and of a special chamber within the court system of Burundi to establish accountability.

For its part, the Government of Burundi approves that new approach, which is justified on two crucial counts. The first is the fact that the distinction between the national truth and reconciliation commission and the international judicial commission of inquiry had not been clear. The *ratione temporis* and *ratione materiae* competences, as well as the investigating powers of the two commissions, were identical. There was thus a clear risk of overlap between the two commissions.

Secondly, the structure of the judicial system in Burundi is generally unable to handle the complex cases of genocide, crimes against humanity and war crimes. The juridical bases of the combined truth commission and the special chamber would be provided in both cases by a national law and an agreement between the United Nations and the Government.

In the light of the Kalomoh commission's conclusions, the Government of Burundi has asked me to make the following communication to the Council.

The Government of Burundi supports the recommendations, which, in its view, meet the dual concerns of the political negotiators in Arusha and of the people of Burundi as a whole, first, to establish the truth and, secondly, to bring the guilty to justice and punish them. Furthermore, the Government of Burundi believes that, beyond the quest for truth and justice, the issue of reconciliation should be placed at the heart of the question of peace and national unity. The new

version of the truth commission does not, in our view, highlight sufficiently the aspect of reconciliation, which is essential for overcoming the consequences of the divisions of the past. For that reason, the Government of Burundi would request of the Security Council that these discussions and those that will follow give priority to the aspect of national reconciliation. We will therefore need to make a determination as to the nature of the structure that will be responsible for this mission.

With respect to the judicial mechanism that will be charged with assigning responsibility, the Government supports the description which is given of it in the mission's report and wishes to point out that there is a need to accelerate the reform of the judicial system that is now under way in order to enable it to discharge the new mission entrusted to it. The final document should therefore clarify the relationship between the truth commission and the court system's special chamber.

The Government of Burundi also believes that the Security Council should specify the financing modalities for the twin mechanism for clarifying the facts and determining responsibility. Indeed, the very credibility of the system that would be put in place will depend on its enjoying continuous and sufficient funding throughout its operation.

Finally, the Government of Burundi hopes that the negotiations aimed at establishing the practical modalities for implementing the report's recommendations will send a strong signal — one that is awaited by our people, who so strongly desire truth and justice. Therefore, in order to raise the awareness of the people of Burundi, who will be the beneficiaries of such mechanisms, it might be desirable to undertake a broad-based consultation involving all sectors of society in order to sound out the people of Burundi and encourage them to support the new truth and justice mechanisms with regard to war crimes, crimes of genocide and other crimes against humanity.

Following the creation of the institutions that emerge after the elections, mixed-composition teams — representing the Government of Burundi and the United Nations — will be established to determine the nature of the tasks ahead and a programme of work before the agreed mechanisms are put in place.

The Government of Burundi is grateful to the Security Council for all the efforts it has made in order to ensure the success of this process. The people of Burundi remember the support and attention that they have received as well as the wise advice which the Security Council has given the political leadership in Burundi, particularly during the various missions to the country.

Our thanks go also to the Secretary-General for his unflagging attention to the cause of peace in Burundi. Throughout this process, the Government of Burundi has always felt, through the very detailed reports that he submitted to the Security Council, his support and encouragement. I should like to take this opportunity to invite him, on behalf of the Government of Burundi, to come to our country to witness the positive results of his untiring efforts.

The President (*spoke in French*): I thank the Minister of Justice of Burundi for his comments.

Mr. Denisov (Russian Federation) (*spoke in Russian*): First of all, I should like to thank Mr. Kiganahe, Minister of Justice of Burundi, and the Assistant Secretary-General for the briefings given today. We thank also the members of the Secretariat assessment mission to Burundi, headed by Mr. Kalomoh, Assistant Secretary-General, for the very substantive and detailed report, whose recommendations and proposals deserve further study. We believe that the most important recommendations are supported by the Secretary-General in his letter of 11 March. Further study of the report is necessary in order to take the necessary well-thought-out decisions and to step up efforts by the international community to establish the truth, avoid partiality and bring about justice in Burundi.

Our delegation believes that the mission's recommendation to establish two bodies, which was discussed in detail and commented upon by both speakers — that is, the recommendation to set up a mixed-composition truth commission and a special chamber in the court system of Burundi — requires a political and legal analysis that takes account of the position of the Government of Burundi and of all interested parties and political forces in that country.

Mr. Motoc (Romania) (*spoke in French*): I, too, wish to begin by extending a warm welcome to Mr. Didace Kiganahe, Minister of Justice of Burundi, and by thanking him for his very enlightening statement. His participation in today's meeting gives us an opportunity to convey to him personally and to the

authorities and the people of Burundi a message of encouragement and support for the continuation of their efforts towards national reconciliation and the establishment of a climate of justice, with a view to the development of Burundi as a stable State. I wish also to thank Mr. Ralph Zacklin for his presentation, which was extremely clear and interesting.

Romania has regularly emphasized the need for the United Nations, the Burundian authorities and the countries of the region to make a concerted effort to put an end to the climate of impunity in Burundi and to ensure that those who have violated human rights may be brought to justice without delay. In that context, priority must be attached to strengthening the country's judicial system in order to provide conditions more conducive to bringing the perpetrators of such acts to justice.

In that same vein, we endorse the approach recommended in the Kalomoh report (S/2005/158) towards establishing the truth and creating a climate of justice in Burundi through the creation of a commission of inquiry of mixed composition and a special chamber. We believe that the principles of justice and the rule of law must apply at the local level; to a great extent, progress towards genuine and effective justice depends on local ownership of the process. At the same time we are of the view that measures in the sphere of criminal justice must be accompanied by a non-judicial mechanism to ensure a substantial contribution to the promotion of national reconciliation.

Here, we are highly encouraged by the Transitional Government's reaffirmation of its political will to eliminate impunity and to lend all necessary support and cooperation to the establishment of the judicial mechanisms that have been proposed.

I take this opportunity to reaffirm once again our opinion that any resolution of the situation in Burundi must be based on a coordinated regional approach. In that regard, I would ask the Minister of Justice whether he could shed further light on what possibilities he sees for strengthening practical regional arrangements in support of the activities of the mechanisms to be established with a view to combating impunity in Burundi.

Finally, we believe that the United Nations Operation in Burundi could play an even more important role by becoming involved, within the terms of its mandate, in the process of capacity-building for the Burundian judicial system.

Mr. Zhang Yishan (China) (*spoke in Chinese*): I wish at the outset to thank the Minister of Justice of Burundi for his statement. I should like also to thank Assistant Secretary-General Zacklin for his briefing.

We are very pleased to see that in recent months the political process in Burundi has been making consistent positive progress. That is a result of the joint efforts of the Government of Burundi and the entire international community. China considers that the establishment of an international judicial commission of inquiry for Burundi would be consistent with the wishes of the Burundian people and would help the further development of the political process in that country.

China supports the recommendations set out in the report transmitted by the Secretary-General (S/2005/158): the establishment of a national truth and reconciliation commission and the establishment of a special chamber within the court system of Burundi to bring to justice those responsible for committing crimes of genocide, crimes against humanity and war crimes. China supports the Security Council authorizing the Secretary-General to hold talks with the Government of Burundi and the other parties in the country with a view to implementing those recommendations.

Mr. Tarrisse da Fontoura (Brazil): My delegation would like to welcome His Excellency Mr. Didace Kiganahe, Minister of Justice of Burundi, and to thank him for taking the time to come to New York to state his Government's views on the recommendations of the Kalomoh report (S/2005/158). I also wish to express our appreciation for the briefing by Mr. Ralph Zacklin, Assistant Secretary-General for Legal Affairs.

Brazil believes that there is a very broad consensus, including among Council members, regarding the need to fight impunity in Burundi, particularly because the Burundians themselves understand that the quest for truth and justice is an essential part of their peace and reconciliation process. The consensus covers also the timing for action: we should move forward in a smooth and prompt way. In that context, we expect that the authorities in Burundi, members of the current Transitional Government and those who will be elected in the near future will

cooperate fully with the international community, and in particular with the Secretary-General and his Special Representative. At the same time, we hope that the Council and the international community at large can act in a timely manner, providing the guidance and assistance required by the Burundians and also upholding their commitment regarding the implementation of the recommendations of the Kalomoh report, including their financial aspects.

To sum up, I would encourage the Transitional Government to maintain its commitment to the transitional process in Burundi and would convey to all parties concerned that peace and development can be promoted by putting an end to impunity for crimes committed in that country.

Mr. Gerald Scott (United States of America): I want to thank the Minister of Justice of Burundi for his appearance here and for his words to us, and to congratulate him on his efforts to bring about a transition to a peaceful, stable society based on the rule of law. I also want to thank the Assistant Secretary-General for the Office of Legal Affairs for his detailed and clear report to us.

The United States has strongly supported the efforts to assist Burundi in making a peaceful transition. Such a society based on the rule of law holds out the best hope for a better future for the people of Burundi and even for the region more generally. To achieve that goal there must be a process by which Burundi faces and understands its past.

In that connection, we have supported the assessment mission, and we find much in the report (S/2005/158) and its recommendations that merits implementation. We look forward to the Secretary-General starting negotiations with the Government of Burundi to bring this about soon.

The recommendations raise a number of questions which need to be addressed and which have been alluded to by both the Assistant Secretary-General and the Minister of Justice. The report and recommendations, after all, constitute a skeleton rather than a detailed blueprint. We would therefore be obliged if further elucidation of these points could be furnished at some point soon.

First of all, we note that the national truth and reconciliation commission will attempt to implement the report's recommendation to establish the facts and determine the causes and nature of the conflict in Burundi, classifying the crimes committed since its independence and identifying those responsible for the crimes of genocide, crimes against humanity and war crimes committed in the various cycles of conflict. That is a very large mandate, and we hope the commission will not become excessively bogged down in a detailed historical search for root causes in the course of Burundi's history.

Secondly, the question of costs has been raised, and we should like to have some sort of estimate of what the ultimate cost of these efforts will be.

We agree strongly with the statement that we need a national sense of ownership of both the commission and the special chamber, and we should like further elucidation of the ways in which this sense of ownership can be promoted.

Finally, we agree that these activities should be funded voluntarily.

Mr. Kitaoka (Japan): I would like to join the previous speakers in extending a warm welcome to Minister Kiganahe and expressing my appreciation for his attendance at this meeting to provide his Government's view on the recommendations in the Secretary-General's report on the possible establishment of two mechanisms to bring about national reconciliation and justice in Burundi. I also thank Mr. Zacklin for introducing the report of the Secretary-General.

We welcome the news that the transitional process in Burundi is making steady progress, as shown by the successful holding of the communal elections, and we applaud the commitment of each and every Burundian to that process. We also welcome the statement of Minister Kiganahe on the recommendations of the Secretary-General, as it demonstrates the determination of his Government to eradicate the culture of impunity while promoting national reconciliation.

We consider some details remain to be sorted out in the recommendations of the Secretary-General. In that connection, I would like to put two questions to Minister Kiganahe.

First, I am fully aware of the urgent need to establish such mechanisms, but doing so will require the discussion and approval of the Parliament of Burundi once the transition is completed. Therefore, I

should be grateful if the Minister could give us his view on the timing of the establishment of the mechanisms.

Secondly, according to the report of the Secretary-General, the legal basis for the establishment of the special chamber and the laws governing its operation will be Burundian law, with necessary modifications. I therefore would like to ask whether the Minister considers that it would be possible to achieve broad support for the recommendations among the people of Burundi and, in particular, the members of the Parliament and the various political parties.

Sir Emyr Jones Parry (United Kingdom): Like other colleagues, I am grateful to both speakers for their contributions earlier.

Ending impunity for past crimes in Burundi is vital. It is necessary for national reconciliation. It is essential for justice, and it is a desirable deterrent throughout the region. Therefore, the United Kingdom supports very much the recommendations we have heard this afternoon.

The hybrid special chamber, with the mandate up to the present day, should deliver the lasting benefits which are necessary, will help the Burundian judicial system and will be, we hope, a continuing deterrent to any future actions.

Mr. Zacklin's justification of the commission, which we set in the context of the work of the special chamber, was particularly welcome, because we had been interested in the interaction, how the two would come together.

I think the questions I would have asked have been asked. I would just extend from the United Kingdom every best wish to Burundi now as it moves forward, that it should do so with utmost success.

Mr. Faaborg-Andersen (Denmark): I too would like to thank the Minister of Justice of Burundi and Assistant Secretary-General Zacklin for their briefings.

We are very pleased to hear that the Transitional Government in Burundi is committed to intensifying its efforts to end impunity. A sustainable peace can be secured only if perpetrators of crimes are brought to justice. Neglect may endanger the progress already made in securing peace and stability in Burundi. The Burundians need the assistance of the United Nations to make progress in bringing an end to impunity. We find that the recommendations in the report on the establishment of a national commission of inquiry and a special judicial chamber strike a good balance between justice and reconciliation and form a very good basis for entering into further discussions. Dialogue between the Transitional Government and the United Nations Operation in Burundi on the specific implementation modalities should thus commence as soon as possible.

Let me also use this opportunity to commend countries in the region for their constant effort to support the peace process in Burundi, and particularly the role played by South Africa and Tanzania, which have had very significant, positive influence.

Finally, without Burundian ownership of the process to end impunity, no real progress will be made. Like others, we would like to hear suggestions from the Minister as to how that ownership could be further enhanced.

Mr. Benmehidi (Algeria) (*spoke in French*): I would like, first of all, to welcome the Minister of Justice of Burundi, Mr. Kiganahe, and to thank him for his statement and for the clarification he has provided. I also thank Mr. Zacklin for his excellent presentation of the report of the assessment mission on the creation of an international judicial commission for Burundi.

My delegation notes with satisfaction that the mission to Burundi came back convinced of the need to set up an international mechanism for seeking the truth and establishing responsibility for crimes committed in that country.

The process of adopting the law to create the national truth and reconciliation commission and the scepticism with which that law has been greeted testify to the need for a credible, impartial and independent mechanism likely to win the support of all Burundians in their search for truth and justice. The support of the international community is essential to establish national reconciliation on a solid foundation. The formula that is proposed — a two-stage mechanism consisting of a national truth commission of mixed composition to look into accountability, and a special chamber in the court system to pursue those responsible for crimes, with both having a major international component — seems to us to be of a nature to help the Burundians to reach the goal of promoting the rule of law, protecting human rights and fighting impunity. This formula also is less

burdensome and easier to implement, and it opens up the prospect of contributing to the long-term improvement of the functioning of the judicial system in Burundi.

We hope that the Security Council will be able to respond positively to the expectations of the people of Burundi with regard to the search for truth promoting justice and fighting impunity, as expressed by the Minister, Mr. Kiganahe.

Mr. García Moritán (Argentina) (*spoke in Spanish*): I would like to thank the Minister of Justice of Burundi, Mr. Kiganahe, for his clear presentation today and for his comments on how to implement the recommendations in the report of the assessment mission. We also thank Mr. Zacklin for introducing the report submitted to us by the Secretary-General.

In that regard, I would like to highlight the importance that my own country attaches to judging crimes against humanity, genocide and war crimes so that the perpetrators of these aberrant crimes will not go unpunished anywhere in the world. It is for this reason that my Government supports any initiative which is aimed at bringing those guilty of these gravest of crimes to justice. The Argentine delegation also supports the initiative under which the Secretary-General would begin negotiations with the Burundian parties in order to implement the recommendations contained in the report of the assessment mission.

Mr. Manongi (United Republic of Tanzania): We, too, welcome Mr. Kiganahe, Minister of Justice of Burundi, and are thankful for his presentation here this afternoon. We are also thankful for the briefing given by Assistant Secretary-General Zacklin.

We are immensely pleased by the agreement of the parties in Burundi in support of the establishment of the mechanism for accountability. The fact that there is a broad consensus in Burundi as to this approach should be welcomed and supported by the Council. We commend this resolve and consider it among the positive measures adopted by the Transitional Government and as a reflection of the Government's good faith in resolving the difficulties that Burundi faces.

In our view, the Arusha Peace and Reconciliation Agreement was not cast in stone. New perspectives are being offered in an attempt to promote national reconciliation, and we must support such attempts. In extending that support, we, too, are conscious of the fact that Burundi will require considerable support from the international community. We should not fail it. We therefore join in appealing for international support in funding the mechanisms being envisaged in Burundi for justice and reconciliation. In our view, this heavy responsibility would have best been served through assessed contributions. Ending impunity must be our collective responsibility and is in our own self-interest.

Lastly, we join the Minister in expressing great caution regarding the relationship between the truth and reconciliation commission and the special chamber of the judicial system in Burundi.

Mr. Zinsou (Benin) (*spoke in French*): We welcome the Minister of Justice of Burundi to New York, as well as his delegation. We thank him for his very enlightening statement. We wish also to express our deep appreciation to Assistant Secretary-General Zacklin for his introduction of the Kalomoh report.

The presence of a ministerial delegation from Burundi at this meeting bears witness to our shared concern — that of the Security Council and of the Government of Burundi — to continue to seek together ways of achieving lasting peace in Burundi. Recent events on the political scene there have given fresh hope to the people of that country that peace will be restored. We find in that one more reason for the international community to continue, and even step up, the considerable efforts that have been made for several years now to help Burundi restore peace.

However, we all are aware that the road to peace and stability in Burundi is still full of pitfalls and replete with challenges. We are particularly concerned by the repeated violations of human rights. One of the major challenges is the fight against impunity and the struggle for national reconciliation. Recent proposals contained in the Kalomoh report seem to us extremely useful and relevant in that regard.

The quest for national reconciliation should take duly into account the need to promote justice. The establishment of truth should be accompanied by the establishment of responsibility. We cannot overestimate the contribution that the twin mechanism proposed could make to the strengthening of the judiciary apparatus and of the rule of law in Burundi. It is our hope that the political leadership in Burundi as a whole and all the parties involved will support these

proposals, and that they will engage in this process in a spirit of sincerity, so that the sources of violence in the country can be eliminated and human rights violations discouraged once and for all, in order to relieve Burundi of the burden of its recent past.

My delegation, together with other Council members, will give its unswerving support to the implementation of the recommendations of the Secretary-General towards that end.

Mr. Mercado (Philippines): We join others in welcoming the Minister of Justice of Burundi. We believe that his presence here underscores the importance that his country attaches to ending impunity, which we all know is the root of instability in Burundi. We also thank Mr. Zacklin for his comprehensive briefing.

Now that Burundi, after more than a decade of civil war, is inching towards recovery, it is important that the truth about past atrocities be revealed and that the perpetrators be brought to justice. Learning the truth about past human rights violations and punishing those responsible for them are prerequisites for the establishment of democracy and respect for the rule of law.

We therefore welcome the innovative recommendations of the assessment mission to create a twin accountability mechanism — a national truth commission comprising international and local commissioners, and a special chamber within the Burundi court system.

I should like to pose two questions to the Justice Minister. The first relates to the composition of the national truth commission. Considering the deep ethnic divisions within Burundian society and the mutual distrust between the two ethnic groups, may we have his thoughts on the selection of the local commissioners? Should it be the United Nations or the Government of Burundi that selects such local commissioners? Secondly, concerning the budget, we believe that, whatever mode of financing is selected, it should be sustained and viable.

On that point, may we know from the Minister how long it is estimated that it would take the twin mechanisms to accomplish their goals?

Mr. Vassilakis (Greece) (*spoke in French*): I, too, would like to welcome the Minister of Justice of Burundi, Mr. Kiganahe, and to thank him for having travelled to New York to express the views and decisions of his Government. Our sincere thanks go also to Assistant Secretary-General Zacklin for his very clear and succinct report.

In establishing a judicial commission of inquiry, we always face a dilemma: we need to punish those who have committed crimes without endangering the reconciliation process within the country, in which all must be involved. We support fully the recommendations to create a truth and reconciliation commission as well as a special chamber. We congratulate the Government of Burundi and the Burundian parties, who had the courage to take this decision to establish justice in the country and to put an end to impunity. That could serve as a precedent for avoiding similar situations in the future.

We wish you every success, Mr. Minister. As you have just heard, I believe, the representatives of the Security Council will stand with you.

The President (*spoke in French*): I shall now make a statement in my national capacity.

We listened with interest to the statements of Mr. Zacklin, Assistant Secretary-General for Legal Affairs, and Mr. Kiganahe, Minister of Justice of Burundi, whom we thank for coming here today.

Two years ago to the day, on 15 June 2003, the Security Council mission that I had the honour to lead in the region of Central Africa and the Great Lakes was in Bujumbura. I recall that all the actors of the Burundi transition process used the same words regarding the need to put an end to impunity. All of them expected a response from the Security Council with a view to establishing an international judicial commission of inquiry. Everyone knew how essential the issue of impunity is in understanding the Burundi conflict. The response that will be given will be decisive in establishing long-term peace and reconciliation in Burundi.

Two years ago there were questions regarding the advisability and feasibility of the mechanism that had been envisaged when the Arusha Agreement was signed. And then important political developments occurred that the Security Council could not ignore. I believe that we also had in mind the more recent experiences of efforts in other conflict situations — particularly in Sierra Leone — to establish the truth, promote reconciliation and prosecute those responsible

for the most serious crimes. Therefore, we asked the Secretary-General to discuss the issue with the Burundian people.

Today, I am very pleased that Mr. Kiganahe has come to confirm that the Transitional Government agrees with the Secretary-General's recommendations. As we know, it was not easy to secure the agreement of the Burundian parties, because the proposed mechanism differs from what was envisaged and agreed at the outset, in Arusha. But the Minister of Justice tells us that the Burundian Government supports the recommendations, which he says meet the two concerns of the Arusha negotiators and the Burundian people as a whole: first, establish the truth, and secondly, prosecute and punish the guilty.

We hope that the discussions for the implementation of this agreement between the Secretary-General and the Burundian authorities can begin swiftly. It is important that the various actors concerned be consulted, because ownership of this process by the Burundian people themselves will guarantee its success. We therefore believe that the discussions should begin immediately within the framework of the transition. Everyone is well aware that the transition has entered its final phase and that the current priority is to successfully hold the elections, which will culminate in August with the presidential election.

Thus, we believe it will be the future Government's responsibility to finalize matters with the Secretary-General. We are confident in the resolve of the Burundian people to harmonize the concern for justice with the concern for reconciliation.

I now resume my functions as President of the Security Council.

I give the floor to Mr. Kiganahe to respond to comments and questions raised.

Mr. Kiganahe (*spoke in French*): I take this opportunity to thank in my turn the representatives of various countries present at this meeting for the support they expressed for the recommendations outlined in the Kalomoh report (S/2005/158). I also thank representatives for the support they are providing and the attention they are devoting to the political developments in my country.

Nearly all the speakers expressed their support for the mechanisms proposed in the Kalomoh report. We expressed approval of them in our statement, and we believe that with the support and the contributions of countries Members of the United Nations system, those mechanisms can be implemented effectively.

During the various statements a number of questions were raised. For example, the representative of Romania asked whether the subregion and the force and staff of the United Nations Operation in Burundi (UNOB) in Bujumbura could assist us in implementing the mechanisms proposed in the Kalomoh report. The representative of the United States wondered what the cost of the operation would be. The representative of Japan asked how long it would take for the mechanism to be established, given the legal process involved and, in particular, the adoption of the necessary laws by the Parliament that will be elected. Other speakers raised an important question about the mechanism for ownership by the Burundian people of the solutions proposed in the Kalomoh report, because it is felt that these solutions can become effective only if the people of Burundi support them and believe that the path that has been charted is useful and wise.

I consider the Great Lakes region countries of Tanzania, Uganda and Rwanda, along with South Africa, to have played a very important role in the peace process in Burundi. In this regard, the Arusha Peace and Reconciliation Agreement, which has provided the legal and political basis for the exercise of power in Burundi over the past four years, was adopted by Burundian political partners as a result of the engagement and fine contribution of His Excellency Julius Nyerere, former President of Tanzania, and, subsequently, of the enlightened leadership of His Excellency Nelson Mandela, former President of South Africa, with the guidance of President Museveni, Chairman of the Great Lakes regional initiative, all of whom dedicated themselves to the success of the process.

Today, the United Nations forces that are operating in Burundi — whose contribution to stabilizing the peace process is obvious — are made up of elements from South Africa, Tanzania, Kenya and even Uganda. The subregion's contribution is thus vital. We must not forget, however, that such contributions would not have been possible without tireless and varied support, in particular financial support provided by the United Nations.

We will continue, therefore, to attach great importance to support from the subregion, as well as to the support that the United Nations has constantly provided to the people of Burundi and to the search for peace.

The various elements of the United Nations Operation in Burundi in Bujumbura, could, indeed, play a genuine role in establishing the various mechanisms — or, at least, in preparing an environment conducive to their effective implementation. This would mean, in particular, participation in capacity-building, because, as has been rightly emphasized in the Kalomoh report, most of the components of the judicial apparatus have human-resources shortcomings — in terms of the number of staff and their qualifications and judicial experience with regard to crimes of such gravity as genocide, war crimes and crimes against humanity. We are therefore convinced that we will be able to benefit from the presence of the various United Nations staff members with a view to immediately laying the groundwork for the implementation of the recommendations contained in the Kalomoh report.

As for the timing — another issue that was raised by a number of speakers — we believe that the Government that will emerge as a result of the elections will spare no effort to speed up the establishment of the mechanisms.

By the end of August, a new Government will have been put in place as a result of the electoral process; to date, commune elections have been held. We believe that, on the basis of the principle of the continuity of the State, the current Government's commitments will be taken into account by the next Government. We are all the more convinced of that, given that the majority forces that are progressively emerging supported the Arusha Agreement in 2000 and, in 2003, the signing in Tanzania of the comprehensive ceasefire agreement of 16 November 2003. That reassures and convinces us that, with regard to these issues, there will be no regression. And we want to give the Council that assurance, too.

On the question of ownership of the mechanisms by the people of Burundi, we believe that, if the mechanisms are perceived by the Burundian community as being the result of foreign intervention, the solutions that emerge will be unlikely to meet the expectations of the people of Burundi.

The fact that consideration has been given to involving the people of Burundi in the search for truth and the process of justice is the first sign of respect for the people of Burundi; this, in turn, will prompt them to support the mechanisms. Furthermore, it was in Arusha, where Burundian political partners met, that the initial proposals were made and the request formulated. We recognize that the recommendations in the Kalomoh report represent a further elaboration on the terms of the request made in Arusha, where the Burundian political actors met. In other words, it will not require a special effort to make the people of Burundi understand that the solutions proposed in the Kalomoh report are, indeed, solutions to the problems that they themselves raised through their political representatives.

We are also convinced that control and ownership by the Burundian people of the mechanisms proposed in the Kalomoh report will be effective only if the Government commits itself to the debate on this question with the participation of different segments of society. We will thus be participating in an awareness-raising campaign to ensure that any future solution takes into account the opinions, views and feelings of the various sectors of Burundian society.

Lastly, the mechanisms outlined in the Kalomoh report will be integrated into our domestic legal system through the adoption of legislation by an elected parliament. We believe that the elected parliament will see to the interests of the people. It will be mandated by the people to manage the most important issues, and in particular the troubling search for truth and justice. The participation and involvement of the legislature in the implementation of those mechanisms will be the finest illustration of the fact that the people will have been consulted through its representatives. We can therefore assure the Council that there will be no problem ensuring the national ownership of those mechanisms.

The President (*spoke in French*): I call on Mr. Zacklin to respond to the questions that were addressed directly to him and to make any comments he might care to make following our debate.

Mr. Zacklin: I listened very carefully to the statements that were made by the members of the Council in support of the Kalomoh report and its recommendations, and I paid particular attention to the statement by the Minister of Justice of Burundi, and in

particular his confirmation that Burundi supports those recommendations. That is particularly important in the context of the question of national ownership, which, as I said in my own statement, is of vital importance to the success or failure of any accountability mechanism that we might put in place.

The report of the Secretary-General and the recommendations are, of course, only a beginning. They are really a blueprint, and it is quite obvious that there are quite a number of points that require further elucidation, some of which have been mentioned this afternoon, including, for example, questions of timing and questions of funding. The Secretariat will provide the information in response to those questions as we proceed in the next stage of the process. They are not easy questions to deal with, but we would be prepared to provide that information as soon as we are in a position to have further discussions with the Government of Burundi.

The Secretary-General has made it clear that he wishes the Secretariat to proceed as soon as possible with the implementation of the recommendations, and we look forward to having further discussions with the representatives of the Government of Burundi shortly.

The President (*spoke in French*): There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 4.55 p.m.

United Nations S PV.5204

Security Council

Sixtieth year

Provisional

5204th meeting

Thursday, 16 June 2005, 3 p.m.

New York

President:	Mr. De La Sablière	(France)
Members:	Algeria	Mr. Djacta
	Argentina	Mr. D'Alotto
	Benin	Mr. Zinsou
	Brazil	Mr. Tarrisse da Fontoura
	China	Mr. Zhang Yishan
	Denmark	Mr. Faaborg-Andersen
	Greece	Mrs. Telalian
	Japan	Mr. Oshima
	Philippines	Mr. Mercado
	Romania	Mr. Motoc
	Russian Federation	Mr. Denisov
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United Republic of Tanzania	Mrs. Taj
	United States of America	Mrs. Patterson

Agenda

The situation concerning Iraq

Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004) (S/2005/373)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

05-38861 (E)

The meeting was called to order at 3.15 p.m.

Adoption of the agenda

The agenda was adopted.

The situation concerning Iraq

Report of the Secretary-General pursuant to paragraph 30 of resolution 1564 (2004) (S/2005/373)

The President (*spoke in French*): I should like to inform the Council that I have received a letter from the representative of Iraq, in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. al-Istrabadi (Iraq) took a seat at the Council table.

The President (*spoke in French*): The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2005/373, which contains a report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004).

At this meeting the Security Council will hear a briefing by Mr. Danilo Türk, Assistant Secretary-General for Political Affairs. I now give the floor to Mr. Türk.

Mr. Türk: I am pleased to present the fourth report of the Secretary-General pursuant to paragraph 30 of Security Council resolution 1546 (2004) (S/2005/373). The report provides an update on United Nations activities in Iraq since the Secretary-General's last report, of 7 March 2005 (S/2005/141 and Corr.1). I will therefore focus my remarks on the political process that has developed since the convening of the Transitional National Assembly and the formation of the Transitional Government and on the implications for the work of the United Nations in the co months.

One year after the adoption of resolution (2004), this report comes at what may be a cr moment for Iraq — internally, regionally internationally. This is also a moment to take sto what has been achieved so far and to take a hard at the road before us.

Despite dire predictions about the evolutio the internal situation, Iraq has been able, wit support of the United Nations, to meet each bench of its political transition so far. Most important, has regained its sovereignty and has a newly el Government now in place following last Janu successful elections. We know from experience difficult it is for any society with a history like to go through such a fundamental transition. sure, there have been inevitable setbacks alon road, and today's problems cannot be addr through quick fixes. That is why it is importa Iraq's new Transitional Government and Transi National Assembly to preserve the initial achieve and address, most seriously, the challenges ahe Iraq moves forward into the next steps of its trans

Many inside and outside Iraq see the po transition process as having entered a decisive ph the process of national reconciliation. Our expe around the world demonstrates that na reconciliation requires a constructive relati between the majority in power and political mino Democratic processes are most successful wh majority allows minorities the full exercise o political rights and the opportunity to contribute governance and reconstruction of their country. other hand, political minorities have an responsibility to contribute to the democratic p and to support the national reconstruction effort. goals are difficult to achieve. They are parti difficult to achieve in countries such as Iraq, ethnic and religious loyalties play an essential the shaping of political choices.

For that reason, the report emphasizes t inclusion of all constituencies, public participati transparency in the political process a responsiveness to the key demands of all p constituencies constitute a sine qua non credibility and, therefore, the success of the tra process. A credible political process will be cr

maintain the necessary political momentum to carry Iraq through the remainder of the transition process. Only by ensuring the confidence of Iraqi constituencies in the process can their key concerns be addressed and accommodated. That obviously is not a new realization. The United Nations has worked consistently for an inclusive political process in Iraq ever since our political presence was established two years ago. It continues to be essential that all intensify their efforts to reach out to one another and to develop relations of trust through dialogue and consensus-building.

The new Government and Assembly have a mandate from the Iraqi people to continue to engage all citizens and political groups, particularly among those who continue to feel disenfranchised. In that regard, we are pleased that the Special Representative of the Secretary-General, Mr. Ashraf Qazi, and his team in the Office of Constitutional Support of the United Nations Assistance Mission for Iraq (UNAMI) were able to help in facilitating the agreement in principle reached today between the Constitutional Drafting Committee of the Transitional National Assembly and representatives of the Sunni Arab community to expand the Drafting Committee by 15 new members and 10 experts. We hope that that breakthrough will now enable the Iraqis to make progress in drafting their new constitution on time.

Flexibility and the capacity to compromise will be required on the part of all — obviously a tall order in Iraq. The process through which the constitution is to emerge is therefore as important as its content and its completion on time. If handled right, it can produce a broadly acceptable constitutional framework for durable peace and stability. At the request of the Iraqi Government, Special Representative Qazi and UNAMI will continue to work closely with Iraqi representatives to help facilitate dialogue and consensus-building among Iraqi parties and promote a constitutional process that is procedurally and substantively inclusive, participatory and transparent. UNAMI is also increasingly coordinating international assistance to the constitutional process.

At the same time, we are putting in place the necessary capacity for UNAMI to continue supporting the Independent Electoral Commission of Iraq and other relevant authorities with regard to planning, training and operational requirements for the upcoming referendum and elections. A new Chief Electoral Officer has been appointed to direct UNAMI's electoral team. We are aware that the timing and the substance of the new constitution may have a profound impact on electoral preparations, especially as may pertain to new electoral legislation. As was the case for the January elections, substantial international assistance will be required for a successful referendum and successful elections.

In order for the transition to succeed, advances in the political process will need to be complemented by tangible improvements in the reconstruction, development and humanitarian areas. After so many years of deprivation, Iraqi citizens are now looking to their leaders to deliver the dividends of their vote in terms of basic services, employment and living conditions. Promises of better lives must translate into real improvement for Iraqis. The United Nations, through creative arrangements with Iraqi implementing partners and on the basis of Iraqi priorities, continues to deliver its reconstruction and development assistance inside Iraq, including in the key areas of governance, human development and poverty reduction, health, education and rural development. An increased focus on institutional capacity-building at the various levels of government is contributing to the improved management of public affairs. UNAMI is also stepping up its efforts to play an enhanced aid coordination role between international donors and designated Iraqi authorities. As in many other situations around the world, the coordinating role of the United Nations represents an example of added value in the context of international efforts to help.

All those efforts are taking place within a security environment that remains extremely challenging. Of particular concern is the increasingly sectarian logic that appears to be inspiring much of the violence. Our paramount concern is that innocent Iraqi civilians continue to bear the brunt of the violence and the use of force. No cause can ever justify terrorist acts that maim and kill innocent men, women and children. At the same time, it is incumbent upon all parties to fully respect their obligations under international humanitarian law and to ensure that the use of force is minimized in order to avoid civilian casualties.

Ultimately, in order for security initiatives to yield the enduring results intended, they need to form part of a broader credible political process that can address the underlying political problems. Two years after the demise of the former regime, it is also

imperative for the new Government, with the support of the international community, to deliver basic services effectively and to do more to promote the rule of law and respect for human rights so that all Iraqis can live free from fear and in dignity.

Having accompanied the Iraqi people and Government thus far in their efforts, the United Nations is determined to continue to implement its mandate under resolution 1546 (2004) to the fullest extent possible, as circumstances permit. The report makes clear that, although a great deal of progress has been made in cooperation with the multinational force in terms of security and support arrangements, UNAMI continues to face severe constraints that could potentially affect the planned expansion of our activities in Iraq.

UNAMI has already demonstrated that effectiveness can be achieved with limited capacity on the ground. Our willingness to deliver on expectations of the United Nations, both inside and outside Iraq, must necessarily be tempered by a realistic assessment of prevailing security and operational conditions. Consistent with our approach since the return of UNAMI to Iraq, we will continue to make every effort to determine how prevailing circumstances can enable, rather than limit, UNAMI in the implementation of its tasks. In doing so, Special Representative Qazi and his UNAMI staff deserve the full support of the Security Council and the General Assembly.

The report also comes on the eve of a major international conference on Iraq to be held on 22 June in Brussels. This is the latest in a series of regional and international initiatives, including the Sharm el-Sheikh ministerial gathering of November 2004, all of which helped to maintain attention on the need for the reconstruction process outlined in resolution 1546 (2004) to succeed. It provides a new opportunity for the international community to widen and deepen consensus in support of Iraq's transition and the role of the United Nations. Benchmarks for success will include a greater degree of international burden-sharing, a positive impact on the situation on the ground and an effective follow-up process.

Both inside and outside Iraq, there is no shortage of financial resources, advice, expertise and goodwill to support the Iraqi people in their historic endeavour. Both Iraq and the international community have no option but to succeed. It behoves all concerned — the new Iraqi Government, the multinational force, this Council and the United Nations — to rise to our shared responsibility to ensure the full implementation of resolution 1546 (2004). Only through a broad-based, concerted approach by all relevant actors will we develop the necessary partnership with Iraq to help it regain its rightful place in the international community.

The President (*spoke in French*): I thank Mr. Türk for his briefing.

I give the floor to the representative of Iraq.

Mr. al-Istrabadi (Iraq): At the outset, I should like to take this opportunity to congratulate you, Sir, on your assumption of the presidency of the Security Council for this month and to commend your predecessor, the Permanent Representative of Denmark, for her tenure last month.

In making this statement, I am mindful that, only two weeks ago, Mr. Hoshyar Zebari, the Foreign Minister of Iraq, made a comprehensive report about the situation in Iraq. I shall endeavour, therefore, not to revisit the issues he raised. I am also aware that since the last time I addressed the Council, in September 2004, it has become a matter of routine for Iraq's representatives to do so on occasions such as these.

Two significant events are now under way in Baghdad. The first relates to Iraq's domestic evolution and internal transition to democracy. I refer, of course, to the process of writing a permanent constitution. Let me assure the Council that my Government is keenly aware of the need to open the process of drafting to all segments of Iraqi society. We understand the need for wider acceptance of the process of drafting, as well as the substantive results. Several proposals are now under consideration for ways and means of accomplishing this all-important task.

In the meantime, the work of establishing the general mechanisms of drafting — such as the creation of committees to consider various individual issues — has begun. We are aware that the transitional administrative law requires the work of drafting to be completed by 15 August, and that resolution 1546 (2004) endorsed that schedule. The Government of Iraq remains committed to producing the draft text of a permanent constitution by 15 August 2005.

The second event now being planned is the international conference to be held in Brussels next week. It will be a major step towards the reintegration

of Iraq into its rightful place in the community of nations. The invitations to the conference were issued to 85 participants, based upon the request of the Government of Iraq, which has been playing a leading role in organizing the conference. The purposes of convening the conference, pursuant to resolution 1546 (2004), are to garner international support for Iraq generally; to extend practical assistance in implementing the political, economic and reconstruction processes; and to promote the rule of law. I am pleased to note that, in support of those aims, the European Troika visited Baghdad on 9 June 2005.

Allow me to discuss a few salient points made in the Secretary-General's report (S/2005/373) about Iraq's transition to democracy. The report states that there is ongoing concern about the state of human rights in Iraq. Let me assure the Council and the world community that the Government of Iraq is also concerned about, and committed to continually improving, the state of human rights. While we have a way to go, we have also covered much ground in the past two years.

We have created a Ministry of Human Rights to assist in implementing Iraq's commitments under international human rights law. Civil society organizations committed to promoting human rights, tolerance and women's rights have flourished in Iraq over that time. International human rights organizations, which had to work outside the country in the past, relying on anecdotal evidence gathered from expatriates, are now free to work within Iraq. They have offices in Baghdad and throughout the country, and have also had unprecedented access to governmental institutions, including our judicial and penal systems. Such access may well be unparalleled in our region.

We will continue to explore ways of improving the state of human rights in our country, and we look to the world community to assist us in this endeavour. After 35 years of utter brutality, it will take some effort for our State institutions again to be acculturated towards respect for basic human rights, but we are determined to accomplish that goal, so vital to our transition.

The Secretary-General notes in his report that many of the funds expended in Iraq by the United Nations Development Group (UNDG) and the World Bank have been for capacity-building and the training of trainers. My Government welcomes those disbursements and notes that enhancing capacity is an important part of our reconstruction. However, funds expended on the ground in Iraq — developing infrastructure, for example — should be the priority at this time. Capacity-building does not have the multiplier effect of dollars spent in direct economic development, an essential element for stability. Although we appreciate that UNDG and World Bank disbursement rates may be higher than those of some other donors, we believe it essential to increase rates of disbursement and to increase the amount of dollars spent inside Iraq.

We welcome the appointments to the United Nations Assistance Mission for Iraq noted in the Secretary-General's report. Nicholas Haysom, as the head of the Office of Constitutional Support, and Michael von der Schulenburg, Deputy Special Representative of the Secretary-General for Political Affairs in Iraq, will bring a wealth of technical expertise to bear as we begin drafting the permanent constitution and complete the political process. My Government notes with particular satisfaction that at least those two officials have taken up their responsibilities within Iraq, and once again urges all their United Nations colleagues in neighbouring States to join them — if not in Baghdad, then in Basrah or Erbil. We welcome the appointment of an elections adviser to assist in preparations for the constitutional referendum and end-of-year elections.

Over the past two years, whenever a representative of Iraq has sat in this Chamber, we have called for an ever-greater assumption of responsibilities and duties by the United Nations in Iraq. It is now appropriate for Iraq — with its first elected Government in 51 years — to raise the issue of its own obligations and the duty it owes to this Organization.

Aside from being a good world citizen, the first among these is the duty of all Member States to pay their dues to the United Nations in a timely fashion. While the previous regime allowed itself to accrue arrears for over 11 years, my Government regards the full payment of Iraq's dues as an essential step towards our continued reintegration into the community of nations and the assumption of our normal responsibilities like any other Member State. To accomplish this step, Minister Zebari addressed a letter to the Secretary-General asking him to transfer a

sufficient amount of funds from the escrow account established by resolution 986 (1995) to extinguish all of our outstanding contributions to the United Nations. We greatly appreciate the positive responses of the members of the Security Council and the Secretariat with respect to that issue.

Last month, the Security Council appropriately considered the mandates of the multinational force and the International Advisory and Monitoring Board. Resolution 1546 (2004) mandated that review. Yet we respectfully remind members of the Council that, in paragraph 22 of the resolution, the Security Council asserted its "intention to revisit the mandates of the United Nations Monitoring, Verification, and Inspection Commission and the International Atomic Energy Agency".

We recognize that this is one of the more complex issues relating to our full reintegration into the world system. Yet we believe that it is appropriate to begin discussing this issue and ways of garnering consensus, we hope, in the relatively near term.

In this regard, I refer to the national report of Iraq submitted in accordance with resolution 1540 (2004), document S/AC.44/2004/(02)/116, in which Iraq stated that it is "strongly committed to the implementation of Security Council resolution 1540 (2004) and ready to cooperate with the Committee established under that resolution".

There are thus certain fundamental considerations that should guide the discussion for which I have called. The first fundamental consideration is that Iraq has no desire to acquire, manufacture or stockpile weapons of mass destruction. The people of Iraq were among the first to suffer from the use of those weapons. I need only to mention Halabja to make the point. The second fundamental consideration is that, as Iraq continues to reintegrate itself into the world system, including by accepting international norms governing those weapons systems, Iraq expects to be treated no differently than any other Member State.

I cannot help reflecting on the fact that next month it will be two years since the first Iraqi Governing Council delegation arrived from Baghdad to meet with the Security Council. It has been a long road for us, and, despite many difficulties, we have made remarkable progress. We have gone from occupation to reasserting our sovereignty, a year ago. Now, for the first time in my lifetime, we have freely elected a Government in elections whose outcome was uncertain and unknown until after the votes were counted. The Government's term of office is fixed and known. By the end of the year, we expect to have a permanent constitution in place and another set of elections. It has been a remarkable journey, from a rogue and outlaw State whose Government retained power by terrorizing its citizens to an elected Government substantially on the way to reintegrating us, with the help of the international community, into the society of civilized nations. Our transformation is not yet complete, but I believe the process is by now irreversible. We have tasted freedom, and we will not turn back.

The President (*spoke in French*): The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

In accordance with the understanding reached in the Council's prior consultations, I should now like to invite Council members to informal consultations to continue our discussion of the subject.

The meeting rose at 3.45 p.m.

United Nations S/PV.5205

Security Council

Sixtieth year

Provisional

5205th meeting

Friday, 17 June 2005, 10 a.m.

New York

President:	Mr. De La Sablière	(France)
Members:	Algeria	Mr. Djacta
	Argentina	Mr. García Moritán
	Benin	Mr. Zinsou
	Brazil	Mr. Sardenberg
	China	Mr. Zhang Yishan
	Denmark	Ms. Løj
	Greece	Mr. Vassilakis
	Japan	Mr. Yamamoto
	Philippines	Ms. Taguiang
	Romania	Ms. Matei
	Russian Federation	Mr. Konuzin
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United Republic of Tanzania	Mr. Manongi
	United States of America	Mr. Fendrick

Agenda

The situation in the Middle East

Report of the Secretary-General on the United Nations Disengagement Observer Force (S/2005/379)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

05-38912 (E)

The meeting was called to order at 10.15 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in the Middle East

Report of the Secretary-General on the United Nations Disengagement Observer Force (S/2005/379)

The President (*spoke in French*): The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them the report of the Secretary-General on the United Nations Disengagement Observer Force, document S/2005/379. Members of the Council also have before them document S/2005/383, which contains the text of a draft resolution prepared in the course of the Council's prior consultations.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote now.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour:

Algeria, Argentina, Benin, Brazil, China, Denmark, France, Greece, Japan, Philippines, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America

The President (*spoke in French*): There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 1605 (2005).

In connection with the resolution just adopted on the renewal of the mandate of the United Nations Disengagement Observer Force, I have been authorized to make the following complementary statement on behalf of the Security Council.

"As is known, the report of the Secretary-General on the United Nations Disengagement Observer Force (S/2005/379) states in paragraph 12:

'... the situation in the Middle East is very tense and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached'.

"That statement of the Secretary-General reflects the view of the Security Council."

That statement will be issued as a document of the Security Council under the symbol S/PRST/2005/24.

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 10.20 a.m.